

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 357

Introduced by Walz, 15; Cavanaugh, 6; McDonnell, 5; Quick, 35.

Read first time January 16, 2019

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2715.07, Reissue Revised Statutes of Nebraska; to adopt the
- 3 Direct Support Professional Tax Credit Act; to harmonize provisions;
- 4 and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Direct Support Professional Tax Credit Act.

3 Sec. 2. For purposes of the Direct Support Professional Tax Credit
4 Act:

5 (1) Department means the Department of Revenue;

6 (2) Developmental disability has the same meaning as in section
7 71-1107;

8 (3) Direct support professional means an individual who:

9 (a) Is employed by (i) an organization that provides services to
10 persons with developmental disabilities pursuant to a medicaid home and
11 community-based services waiver or (ii) a non-state-operated intermediate
12 care facility for persons with developmental disabilities; and

13 (b) Works directly with persons with developmental disabilities; and

14 (4) Intermediate care facility for persons with developmental
15 disabilities has the same meaning as in section 71-421.

16 Sec. 3. (1) A direct support professional may apply to the
17 department to receive a tax credit under the Direct Support Professional
18 Tax Credit Act. The tax credit shall be a refundable credit that may be
19 taken against the income tax imposed by the Nebraska Revenue Act of 1967.
20 The amount of the tax credit shall be three hundred dollars.

21 (2) A direct support professional shall be eligible to receive such
22 tax credit if:

23 (a) He or she worked for an employer described in subdivision (3)(a)
24 of section 2 of this act for an average of twenty hours per week for at
25 least six consecutive months during the most recently completed taxable
26 year; and

27 (b) His or her federal adjusted gross income for the most recently
28 completed taxable year did not exceed four hundred percent of the federal
29 poverty level.

30 (3) Applications for the tax credit shall be submitted on a form
31 prescribed by the department and shall include the following information:

1 (a) The name and address of the direct support professional;

2 (b) The place of employment of the direct support professional and
3 the length of employment and number of hours worked at such place of
4 employment during the most recently completed taxable year;

5 (c) The federal adjusted gross income of the direct support
6 professional for the most recently completed taxable year; and

7 (d) Any other documentation required by the department.

8 (4) Subject to section 4 of this act, if the department determines
9 that the direct support professional qualifies for a tax credit under
10 this section, the department shall approve the application and shall
11 certify the amount of the approved tax credit to the direct support
12 professional.

13 (5) The direct support professional shall claim the tax credit by
14 attaching the tax credit certification received from the department to
15 his or her state income tax return for the taxable year in which the tax
16 credit was approved.

17 Sec. 4. (1) The department shall consider applications for tax
18 credits under the Direct Support Professional Tax Credit Act in the order
19 in which they are received and may approve up to one million two hundred
20 thousand dollars of tax credits in any calendar year.

21 (2) The department shall accept applications for tax credits during
22 calendar years 2020 through 2024. After such time, no further
23 applications shall be accepted and no further tax credits shall be
24 approved under the act.

25 Sec. 5. If the department finds that a person has obtained a tax
26 credit under the Direct Support Professional Tax Credit Act by fraud or
27 misrepresentation, the tax credit shall be disallowed. The department may
28 recover such disallowed tax credit within three years from the end of the
29 year in which the tax credit was claimed.

30 Sec. 6. The department may adopt and promulgate rules and
31 regulations to carry out the Direct Support Professional Tax Credit Act.

1 Sec. 7. Section 77-2715.07, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-2715.07 (1) There shall be allowed to qualified resident
4 individuals as a nonrefundable credit against the income tax imposed by
5 the Nebraska Revenue Act of 1967:

6 (a) A credit equal to the federal credit allowed under section 22 of
7 the Internal Revenue Code; and

8 (b) A credit for taxes paid to another state as provided in section
9 77-2730.

10 (2) There shall be allowed to qualified resident individuals against
11 the income tax imposed by the Nebraska Revenue Act of 1967:

12 (a) For returns filed reporting federal adjusted gross incomes of
13 greater than twenty-nine thousand dollars, a nonrefundable credit equal
14 to twenty-five percent of the federal credit allowed under section 21 of
15 the Internal Revenue Code of 1986, as amended, except that for taxable
16 years beginning or deemed to begin on or after January 1, 2015, such
17 nonrefundable credit shall be allowed only if the individual would have
18 received the federal credit allowed under section 21 of the code after
19 adding back in any carryforward of a net operating loss that was deducted
20 pursuant to such section in determining eligibility for the federal
21 credit;

22 (b) For returns filed reporting federal adjusted gross income of
23 twenty-nine thousand dollars or less, a refundable credit equal to a
24 percentage of the federal credit allowable under section 21 of the
25 Internal Revenue Code of 1986, as amended, whether or not the federal
26 credit was limited by the federal tax liability. The percentage of the
27 federal credit shall be one hundred percent for incomes not greater than
28 twenty-two thousand dollars, and the percentage shall be reduced by ten
29 percent for each one thousand dollars, or fraction thereof, by which the
30 reported federal adjusted gross income exceeds twenty-two thousand
31 dollars, except that for taxable years beginning or deemed to begin on or

1 after January 1, 2015, such refundable credit shall be allowed only if
2 the individual would have received the federal credit allowed under
3 section 21 of the code after adding back in any carryforward of a net
4 operating loss that was deducted pursuant to such section in determining
5 eligibility for the federal credit;

6 (c) A refundable credit as provided in section 77-5209.01 for
7 individuals who qualify for an income tax credit as a qualified beginning
8 farmer or livestock producer under the Beginning Farmer Tax Credit Act
9 for all taxable years beginning or deemed to begin on or after January 1,
10 2006, under the Internal Revenue Code of 1986, as amended;

11 (d) A refundable credit for individuals who qualify for an income
12 tax credit under the Angel Investment Tax Credit Act, the Nebraska
13 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
14 and Development Act, or the Volunteer Emergency Responders Incentive Act;
15 and

16 (e) A refundable credit equal to ten percent of the federal credit
17 allowed under section 32 of the Internal Revenue Code of 1986, as
18 amended, except that for taxable years beginning or deemed to begin on or
19 after January 1, 2015, such refundable credit shall be allowed only if
20 the individual would have received the federal credit allowed under
21 section 32 of the code after adding back in any carryforward of a net
22 operating loss that was deducted pursuant to such section in determining
23 eligibility for the federal credit.

24 (3) There shall be allowed to all individuals as a nonrefundable
25 credit against the income tax imposed by the Nebraska Revenue Act of
26 1967:

27 (a) A credit for personal exemptions allowed under section
28 77-2716.01;

29 (b) A credit for contributions to certified community betterment
30 programs as provided in the Community Development Assistance Act. Each
31 partner, each shareholder of an electing subchapter S corporation, each

1 beneficiary of an estate or trust, or each member of a limited liability
2 company shall report his or her share of the credit in the same manner
3 and proportion as he or she reports the partnership, subchapter S
4 corporation, estate, trust, or limited liability company income;

5 (c) A credit for investment in a biodiesel facility as provided in
6 section 77-27,236;

7 (d) A credit as provided in the New Markets Job Growth Investment
8 Act;

9 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
10 Revitalization Act;

11 (f) A credit to employers as provided in section 77-27,238; and

12 (g) A credit as provided in the Affordable Housing Tax Credit Act.

13 (4) There shall be allowed as a credit against the income tax
14 imposed by the Nebraska Revenue Act of 1967:

15 (a) A credit to all resident estates and trusts for taxes paid to
16 another state as provided in section 77-2730;

17 (b) A credit to all estates and trusts for contributions to
18 certified community betterment programs as provided in the Community
19 Development Assistance Act; and

20 (c) A refundable credit for individuals who qualify for an income
21 tax credit as an owner of agricultural assets under the Beginning Farmer
22 Tax Credit Act for all taxable years beginning or deemed to begin on or
23 after January 1, 2009, under the Internal Revenue Code of 1986, as
24 amended. The credit allowed for each partner, shareholder, member, or
25 beneficiary of a partnership, corporation, limited liability company, or
26 estate or trust qualifying for an income tax credit as an owner of
27 agricultural assets under the Beginning Farmer Tax Credit Act shall be
28 equal to the partner's, shareholder's, member's, or beneficiary's portion
29 of the amount of tax credit distributed pursuant to subsection (4) of
30 section 77-5211.

31 (5)(a) For all taxable years beginning on or after January 1, 2007,

1 and before January 1, 2009, under the Internal Revenue Code of 1986, as
2 amended, there shall be allowed to each partner, shareholder, member, or
3 beneficiary of a partnership, subchapter S corporation, limited liability
4 company, or estate or trust a nonrefundable credit against the income tax
5 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
6 partner's, shareholder's, member's, or beneficiary's portion of the
7 amount of franchise tax paid to the state under sections 77-3801 to
8 77-3807 by a financial institution.

9 (b) For all taxable years beginning on or after January 1, 2009,
10 under the Internal Revenue Code of 1986, as amended, there shall be
11 allowed to each partner, shareholder, member, or beneficiary of a
12 partnership, subchapter S corporation, limited liability company, or
13 estate or trust a nonrefundable credit against the income tax imposed by
14 the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's,
15 member's, or beneficiary's portion of the amount of franchise tax paid to
16 the state under sections 77-3801 to 77-3807 by a financial institution.

17 (c) Each partner, shareholder, member, or beneficiary shall report
18 his or her share of the credit in the same manner and proportion as he or
19 she reports the partnership, subchapter S corporation, limited liability
20 company, or estate or trust income. If any partner, shareholder, member,
21 or beneficiary cannot fully utilize the credit for that year, the credit
22 may not be carried forward or back.

23 (6) There shall be allowed to all individuals nonrefundable credits
24 against the income tax imposed by the Nebraska Revenue Act of 1967 as
25 provided in section 77-3604 and refundable credits against the income tax
26 imposed by the Nebraska Revenue Act of 1967 as provided in section
27 77-3605.

28 (7) There shall be allowed to all individuals refundable credits
29 against the income tax imposed by the Nebraska Revenue Act of 1967 as
30 provided in the Direct Support Professional Tax Credit Act.

31 Sec. 8. Original section 77-2715.07, Reissue Revised Statutes of

1 Nebraska, is repealed.