AMENDMENTS TO LB364

Introduced by Revenue.

1. Strike the original sections and insert the following new sections:

Section 1. Sections 1 to 13 of this act shall be known and may be cited as the Opportunity Scholarships Act.

Sec. 2. The Legislature finds that:

(1) Enabling the greatest number of parents and legal guardians to choose among quality educational opportunities for children will improve the quality of education available to all children;

(2) Privately operated elementary and secondary schools in Nebraska satisfy the state's requirements for legal operation and provide quality educational opportunities for children;

(3) For parents and legal guardians who are paying taxes in support of public elementary and secondary schools, choosing privately operated schools for their children can be a financial burden because typically these parents and legal guardians will be paying twice for education through tuition and taxes;

(4) Parents and legal guardians of limited means are less able to choose among quality educational opportunities for their children;

(5) Making it possible for more parents and legal guardians to be able to choose privately operated schools reduces publicly funded educational costs and benefits Nebraska taxpayers; and

(6) It is in the best interests of the State of Nebraska and its citizens to encourage individuals and businesses to support organizations that financially assist parents and legal guardians who want to enroll their children in privately operated elementary and secondary schools, and such encouragement can be accomplished through the use of tax credits.
Sec. 3. For purposes of the Opportunity Scholarships Act:

(1) Department means the Department of Revenue;

(2) Education scholarship means a financial grant-in-aid to be used
to pay all or part of the tuition and fees for attending a qualified
school and includes any tuition grants;

(3) Eligible student means a resident of Nebraska who:

(a) Is a dependent member of a household that, for the most recently
concluded calendar year before the student receives an education
scholarship pursuant to the act, has a gross income which does not exceed
the income indicated in the income eligibility guidelines for reduced
price meals under the National School Lunch Program in 7 C.F.R. part 210,
as such part existed on January 1, 2021; and

(b)(i) Is receiving an education scholarship for the first time and
is (A) entering kindergarten or ninth grade in a qualified school or (B)
transferring from a public school at which the student was enrolled for
at least one semester immediately preceding the first semester for which
the student receives an education scholarship to a qualified school and
is entering any of grades kindergarten through twelve;

(ii) Has previously received an education scholarship and is
continuing education at a qualified school until such student graduates
from high school or reaches twenty-one years of age, whichever comes
first; or

(iii) Is the sibling of a student who is receiving an education
scholarship and resides in the same household as such student;

(4) Qualified school means any nongovernmental, privately operated
elementary or secondary school located in this state that (a) is operated
not for profit, (b) complies with the antidiscrimination provisions of 42
U.S.C. 1981 as such section existed on January 1, 2021, (c) complies with
all health and life safety laws or codes that apply to privately operated
schools, and (d) fulfills the applicable accreditation or approval
requirements established by the State Board of Education pursuant to

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section 79-318:

(5) Scholarship-granting organization means a charitable organization in this state that is (a) exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and (b) certified pursuant to section 4 of this act to provide tax-credit-supported education scholarships to eligible students to assist them in attending qualified schools; and

(6) Tuition means any amount charged by a qualified school for enrollment in its instructional program. Tuition shall not exceed the full cost of educating an eligible student at such qualified school.

Sec. 4. (1) An organization may apply to the department to become certified as a scholarship-granting organization under the Opportunity Scholarships Act. An organization shall obtain such certification prior to providing any education scholarships to eligible students under the act. The applicant shall provide the department with sufficient information to show:

(a) That the applicant is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(b) That the applicant will offer one or more education scholarship programs for eligible students;

(c) That the applicant will be able to comply with the requirements of section 10 of this act;

(d) That the applicant will provide education scholarships for eligible students without limiting education scholarship availability to only one qualified school;

(e) That the applicant will give first priority to eligible students who received an education scholarship from an eligible scholarship-granting organization during the previous school year and then to new applicants whose household income levels do not exceed one hundred eighty-five percent of the federal poverty level or who are in foster care or out-of-home care;
(f) That the applicant will limit the maximum scholarship amount awarded to any student to the cost of tuition and fees at the qualified school such student attends; and

(g) That the applicant will limit scholarship amounts awarded to students in a manner that assures that the average of the scholarship amounts awarded per student does not exceed seventy-five percent of the statewide average general fund operating expenditures per formula student for the most recently available complete data year as such terms are defined in section 79-1003.

(2) If the applicant meets the requirements of this section, the department shall certify it as a scholarship-granting organization for tax-credit purposes under the Opportunity Scholarships Act. Such certification is subject to revocation by the department if the scholarship-granting organization subsequently fails to fulfill the requirements of this section or section 10 of this act.

Sec. 5. (1) An individual taxpayer who makes one or more cash contributions to one or more scholarship-granting organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Opportunity Scholarships Act, the amount of the credit shall be equal to the lesser of (a) the total amount of such contributions made during the tax year or (b) fifty percent of the income tax liability of such taxpayer for the tax year. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code.

(2) Taxpayers who are married but file separate returns for a tax year in which they could have filed a joint return may each claim only one-half of the tax credit that would otherwise have been allowed for a joint return.

(3) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the credit that is unused may be
carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(4) The taxpayer may not designate all or any part of the contribution to a scholarship-granting organization for the benefit of any eligible student specifically identified by the taxpayer.

(5) The tax credit allowed under this section is subject to section 9 of this act.

Sec. 6. (1) Any partnership, limited liability company, or corporation having an election in effect under subchapter S of the Internal Revenue Code of 1986, as amended, that (a) is carrying on any trade or business for which deductions would be allowed under section 162 of the Internal Revenue Code of 1986, as amended, or is carrying on any rental activity and (b) makes one or more cash contributions to one or more scholarship-granting organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Opportunity Scholarships Act, the amount of the credit shall be equal to the lesser of (a) the total amount of such contributions made during the tax year or (b) fifty percent of the income tax liability of such taxpayer for the tax year. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code. The credit shall be attributed to each partner, member, or shareholder in the same proportion used to report the partnership's, limited liability company's, or subchapter S corporation's income or loss for income tax purposes.

(2) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the tax credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.
(3) The taxpayer may not designate all or any part of the contribution to a scholarship-granting organization for the benefit of any eligible student specifically identified by the taxpayer.

(4) The tax credit allowed under this section is subject to section 9 of this act.

Sec. 7. (1) An estate or trust which makes one or more cash contributions to one or more scholarship-granting organizations during a tax year shall be eligible for a credit against the income tax due under the Nebraska Revenue Act of 1967. Except as otherwise provided in the Opportunity Scholarships Act, the amount of the credit shall be equal to the lesser of (a) the total amount of such contributions made during the tax year or (b) fifty percent of the income tax liability of such taxpayer for the tax year. A taxpayer may only claim a credit pursuant to this section for the portion of the contribution that was not claimed as a charitable contribution under the Internal Revenue Code. Any credit not used by the estate or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for income tax purposes.

(2) The tax credit allowed under this section shall be a nonrefundable credit. Any amount of the tax credit that is unused may be carried forward and applied against the taxpayer's income tax liability for the next five years immediately following the tax year in which the credit is first allowed. The tax credit cannot be carried back.

(3) The taxpayer may not designate all or any part of the contribution to a scholarship-granting organization for the benefit of any eligible student specifically identified by the taxpayer.

(4) The tax credit allowed under this section is subject to section 9 of this act.

Sec. 8. (1) A corporate taxpayer as defined in section 77-2734.04 which makes one or more cash contributions to one or more scholarship-granting organizations during a tax year shall be eligible for a credit
against the income tax due under the Nebraska Revenue Act of 1967. Except
as otherwise provided in the Opportunity Scholarships Act, the amount of
the credit shall be equal to the lesser of (a) the total amount of such
contributions made during the tax year or (b) fifty percent of the income
tax liability of such taxpayer for the tax year. A taxpayer may only
claim a credit pursuant to this section for the portion of the
contribution that was not claimed as a charitable contribution under the
Internal Revenue Code.

(2) The tax credit allowed under this section shall be a
nonrefundable credit. Any amount of the tax credit that is unused may be
carried forward and applied against the taxpayer's income tax liability
for the next five years immediately following the tax year in which the
credit is first allowed. The tax credit cannot be carried back.

(3) The taxpayer may not designate all or any part of the
contribution to a scholarship-granting organization for the benefit of
any eligible student specifically identified by the taxpayer.

(4) The tax credit allowed under this section is subject to section
9 of this act.

Sec. 9. (1) Prior to making a contribution to a scholarship-
granting organization, any taxpayer desiring to claim a tax credit under
the Opportunity Scholarships Act shall notify the scholarship-granting
organization of the taxpayer's intent to make a contribution and the
amount to be claimed as a tax credit. Upon receiving each such
notification, the scholarship-granting organization shall notify the
department of the intended tax credit amount. If the department
determines that the intended tax credit amount in the notification would
exceed the limit specified in subsection (3) of this section, the
department shall notify the scholarship-granting organization of its
determination within thirty days after receipt of the notification. The
scholarship-granting organization shall then promptly notify the taxpayer
of the department's determination that the intended tax credit amount in
the notification is not available. If an amount less than the amount indicated in the notification is available for a tax credit, the department shall notify the scholarship-granting organization of the available amount and the scholarship-granting organization shall notify the taxpayer of the available amount within three business days.

(2) In order to be allowed a tax credit as provided by the act, the taxpayer shall make its contribution between thirty-one and sixty days after notifying the scholarship-granting organization of the taxpayer's intent to make a contribution. If the scholarship-granting organization does not receive the contribution within the required time period, it shall notify the department of such fact and the department shall no longer include such amount when calculating whether the limit prescribed in subsection (3) of this section has been exceeded. If the scholarship-granting organization receives the contribution within the required time period, it shall provide the taxpayer with a receipt for the contribution. The receipt shall show the name and address of the scholarship-granting organization, the date the scholarship-granting organization was certified by the department in accordance with section 4 of this act, the name, address, and, if available, tax identification number of the taxpayer making the contribution, the amount of the contribution, and the date the contribution was received.

(3) The department shall consider notifications regarding intended tax credit amounts in the order in which they are received to ascertain whether the intended tax credit amounts are within the annual limit of five million dollars.

(4) Once credits have reached the annual limit of five million dollars for any calendar year, no additional credits shall be allowed for such calendar year. Credits shall be prorated among the notifications received on the day the annual limit is exceeded.

Sec. 10. (1) In order for a scholarship-granting organization to remain certified under the Opportunity Scholarships Act, the scholarship-
granting organization shall allocate at least ninety percent of its revenue for education scholarships and no more than ten percent of its revenue shall be used or reserved for administrative costs.

(2) For purposes of this section, revenue is allocated when it is expended or otherwise irrevocably encumbered for expenditure. The percentage of funds allocated for education scholarships shall be measured as a monthly average over the most recent twenty-four-month period or, for a scholarship-granting organization that has been certified for less than twenty-four months, over the period of time that the scholarship-granting organization has been certified.

Sec. 11. (1) Each scholarship-granting organization shall annually submit to the department no later than December 1 of each year an audited financial information report for its most recent fiscal year certified by an independent public accountant.

(2) Each scholarship-granting organization shall include with the report submitted under subsection (1) of this section a summary description of (a) its policies and procedures for awarding education scholarships, (b) the number of eligible students receiving education scholarships in the most recent fiscal year, (c) the total amount of contributions received for education scholarships in the most recent fiscal year, and (d) the total amount of education scholarships awarded in the most recent fiscal year.

(3) The department shall electronically forward such reports and summary descriptions to the Governor and the Legislature no later than December 31 of each year.

Sec. 12. The Opportunity Scholarships Act shall not be construed as granting any expanded or additional authority to the State of Nebraska to control or influence the governance or policies of any qualified school due to the fact that the qualified school admits and enrolls students who receive education scholarships or as requiring any such qualified school to admit or, once admitted, to continue the enrollment of any student
receiving an education scholarship.

Sec. 13. The department may adopt and promulgate rules and regulations to carry out the Opportunity Scholarships Act.

Sec. 14. Sections 14 to 20 of this act shall be known and may be cited as the Nebraska Child Care Contribution Tax Credit Act.

Sec. 15. The Legislature finds that COVID-19 has greatly impacted the child care industry, and access to quality child care opportunities is crucial to Nebraska's ongoing economic stability and growth.

Sec. 16. For purposes of the Nebraska Child Care Contribution Tax Credit Act:

(1) Child means an individual who is twelve years of age or less;

(2) Child care and education provider means a person who owns or operates an eligible child care and early childhood education program;

(3) Department means the Department of Revenue;

(4) Eligible child care and early childhood education program means a program that:

(a) Is enrolled to participate in the quality rating and improvement system developed under the Step Up to Quality Child Care Act;

(b) Is licensed as a family child care home I, family child care home II, child care center, preschool, or school-age-only center; and

(c) Operates as a for-profit child care business or is a nonprofit organization under the Internal Revenue Code of 1986;

(5) Intermediary means any organization that distributes funds for the purpose of supporting an eligible child care and early childhood education program;

(6) Qualifying contribution means a contribution in the form of cash, check, cash equivalent, agricultural commodity, livestock, or publicly traded security that is used for one or more of the purposes described in subsection (4) of section 17 of this act. A contribution of any other type of property or any service is not a qualifying contribution; and
(7) Taxpayer means any person subject to the income tax imposed by the Nebraska Revenue Act of 1967. The term includes resident and nonresident individuals, estates, trusts, and corporations.

Sec. 17. (1) For taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2027, under the Internal Revenue Code of 1986, as amended, any taxpayer who makes a qualifying contribution may apply to the department to receive a nonrefundable tax credit against the income tax imposed by the Nebraska Revenue Act of 1967.

(2)(a) The credit shall be equal to either fifty percent or seventy-five percent of the taxpayer's qualifying contribution made during the taxable year, except that the credit for a taxpayer for any single taxable year shall not exceed twenty-five thousand dollars or fifty percent of the taxpayer's state income tax liability, whichever is less.

(b) The credit shall be equal to seventy-five percent of the qualifying contribution if the eligible child care and early childhood education program that receives the contribution has at least one child enrolled in the child care subsidy program established pursuant to section 68-1202 and the child care and education provider is actively caring and billing for the child as verified by the Department of Health and Human Services.

(c) The credit shall be equal to fifty percent of the qualifying contribution if subdivision (2)(b) of this section does not apply.

(3) If a taxpayer does not use all of the credits earned for any taxable year, the taxpayer may carry forward the unused credits for up to five taxable years after the taxable year in which the credits were earned. Credits shall not be carried back.

(4) In order to be considered a qualifying contribution, the contribution must be:

(a) For the establishment or operation of an eligible child care and early childhood education program;
(b) For the establishment of a registered grant or loan program for parents requiring financial assistance for an eligible child care and early childhood education program;

(c) To an early childhood collaborative or another intermediary for the training, technical assistance, or mentorship of child care and education providers;

(d) For the establishment or ongoing costs of an information dissemination program that assists parents with information and referral services for child care;

(e) To a for-profit child care business, including a family home provider. The for-profit child care business must use the proceeds of a qualifying contribution for (i) the acquisition or improvement of the child care facilities or (ii) equipment; or

(f) To an intermediary for the establishment or operation of an eligible child care and early childhood education program or a program for parents requiring financial assistance for an eligible child care and early childhood education program.

(5) A contribution shall not qualify for a credit under this section if:

(a) The contribution is made to a child care provider in which the taxpayer or a person related to the taxpayer has a financial interest which would result in direct benefit to the taxpayer or related person; or

(b) The contribution is made to a for-profit child care business and is not directly invested in the acquisition or improvement of child care facilities or equipment.

Sec. 18. (1) A taxpayer shall apply for the credit provided under the Nebraska Child Care Contribution Tax Credit Act by submitting an application to the department with the following information:

(a) Documentation to show that the contribution is a qualifying contribution and meets the requirements provided in the act; and
(b) Any other documentation required by the department.

(2) If the department determines that the taxpayer qualifies for tax credits under the act, the department shall approve the application and certify the amount of credits approved to the taxpayer. The department shall accept applications on an annual basis and shall consider the applications in the order in which they are received. The department may approve credits under this section until the total amount of credits approved for the year equals five million dollars.

(3) The credits allowed under the act may be earned for taxable years beginning or deemed to begin on or after January 1, 2022, and before January 1, 2027.

Sec. 19. (1) If the department finds that a person has obtained a credit by fraud or misrepresentation, the credits shall be disallowed and the taxpayer's state income tax for the taxable year in which the credit was claimed shall be increased by the amount necessary to recapture the credit.

(2) Credits granted to a taxpayer, but later disallowed, may be recovered by the department within three years after the end of the taxable year in which the credit was claimed.

Sec. 20. The department may adopt and promulgate rules and regulations to carry out the Nebraska Child Care Contribution Tax Credit Act.

Sec. 21. Section 77-2715.07, Revised Statutes Cumulative Supplement, 2020, is amended to read:

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

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

(b) A credit for taxes paid to another state as provided in section 77-2730.
(2) There shall be allowed to qualified resident individuals against the income tax imposed by the Nebraska Revenue Act of 1967:

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

(b) For returns filed reporting federal adjusted gross income of twenty-nine thousand dollars or less, a refundable credit equal to a percentage of the federal credit allowable under section 21 of the Internal Revenue Code of 1986, as amended, whether or not the federal credit was limited by the federal tax liability. The percentage of the federal credit shall be one hundred percent for incomes not greater than twenty-two thousand dollars, and the percentage shall be reduced by ten percent for each one thousand dollars, or fraction thereof, by which the reported federal adjusted gross income exceeds twenty-two thousand dollars, except that for taxable years beginning or deemed to begin on or after January 1, 2015, such refundable credit shall be allowed only if the individual would have received the federal credit allowed under section 21 of the code after adding back in any carryforward of a net operating loss that was deducted pursuant to such section in determining eligibility for the federal credit;

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

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

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

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

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

(b) A credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner, each shareholder of an electing subchapter S corporation, each beneficiary of an estate or trust, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, estate, trust, or limited liability company income;

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

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

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

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

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

(h) A credit as provided in the Opportunity Scholarships Act; and

(i) A credit as provided in the Nebraska Child Care Contribution Tax Act.

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

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

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

(c) A refundable credit for individuals who qualify for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2009, under the Internal Revenue Code of 1986, as amended. The credit allowed for each partner, shareholder, member, or beneficiary of a partnership, corporation, limited liability company, or estate or trust qualifying for an income tax credit as an owner of agricultural assets under the Beginning Farmer Tax Credit Act shall be equal to the partner's, shareholder's, member's, or beneficiary's portion of the amount of tax credit distributed pursuant to subsection (6) of section 77-5211.

(5)(a) For all taxable years beginning on or after January 1, 2007, and before January 1, 2009, under the Internal Revenue Code of 1986, as amended, there shall be allowed to each partner, shareholder, member, or beneficiary of a partnership, subchapter S corporation, limited liability company, or estate or trust a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the partner's, shareholder's, member's, or beneficiary's portion of the
amount of franchise tax paid to the state under sections 77-3801 to 77-3807 by a financial institution.

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

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

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

(7)(a) For taxable years beginning or deemed to begin on or after January 1, 2020, and before January 1, 2026, under the Internal Revenue Code of 1986, as amended, a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967 in the amount of five thousand dollars shall be allowed to any individual who purchases a residence during the taxable year if such residence:

(i) Is located within an area that has been declared an extremely blighted area under section 18-2101.02;

(ii) Is the individual's primary residence; and

(iii) Was not purchased from a family member of the individual or a
family member of the individual's spouse.

(b) The credit provided in this subsection shall be claimed for the taxable year in which the residence is purchased. If the individual cannot fully utilize the credit for such year, the credit may be carried forward to subsequent taxable years until fully utilized.

(c) No more than one credit may be claimed under this subsection with respect to a single residence.

(d) The credit provided in this subsection shall be subject to recapture by the Department of Revenue if the individual claiming the credit sells or otherwise transfers the residence or quits using the residence as his or her primary residence within five years after the end of the taxable year in which the credit was claimed.

(e) For purposes of this subsection, family member means an individual's spouse, child, parent, brother, sister, grandchild, or grandparent, whether by blood, marriage, or adoption.

(8) There shall be allowed to all individuals refundable credits against the income tax imposed by the Nebraska Revenue Act of 1967 as provided in the Nebraska Property Tax Incentive Act and the Renewable Chemical Production Tax Credit Act.

Sec. 22. Section 77-2717, Revised Statutes Cumulative Supplement, 2020, is amended to read:

77-2717 (1)(a)(i) For taxable years beginning or deemed to begin before January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (A) substituting Nebraska taxable income for federal taxable income, (B) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the
determination of federal taxable income, and (C) applying Nebraska rates
to the result. The federal credit for prior year minimum tax, after the
recomputations required by the Nebraska Revenue Act of 1967, and the
credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
and the Nebraska Advantage Research and Development Act shall be allowed
as a reduction in the income tax due. A refundable income tax credit
shall be allowed for all resident estates and trusts under the Angel
Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
Credit Act, and the Nebraska Advantage Research and Development Act. A
nonrefundable income tax credit shall be allowed for all resident estates
and trusts as provided in the New Markets Job Growth Investment Act.

(ii) For taxable years beginning or deemed to begin on or after
January 1, 2014, the tax imposed on all resident estates and trusts shall
be a percentage of the federal taxable income of such estates and trusts
as modified in section 77-2716, plus a percentage of the federal tax on
premature or lump-sum distributions from qualified retirement plans. The
additional taxes shall be recomputed by substituting Nebraska taxable
income for federal taxable income and applying Nebraska rates to the
result. The credits provided in the Nebraska Advantage Microenterprise
Tax Credit Act and the Nebraska Advantage Research and Development Act
shall be allowed as a reduction in the income tax due. A refundable
income tax credit shall be allowed for all resident estates and trusts
under the Angel Investment Tax Credit Act, the Nebraska Advantage
Microenterprise Tax Credit Act, the Nebraska Advantage Research and
Development Act, the Nebraska Property Tax Incentive Act, and the
Renewable Chemical Production Tax Credit Act. A nonrefundable income tax
credit shall be allowed for all resident estates and trusts as provided
in the Nebraska Job Creation and Mainstreet Revitalization Act, the New
Markets Job Growth Investment Act, the School Readiness Tax Credit Act,
the Affordable Housing Tax Credit Act, the Opportunity Scholarships Act,
the Nebraska Child Care Contribution Tax Credit Act, and section
(b) The tax imposed on all nonresident estates and trusts shall be the portion of the tax imposed on resident estates and trusts which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by multiplying the liability to this state for a resident estate or trust with the same total income by a fraction, the numerator of which is the nonresident estate's or trust's Nebraska income as determined by sections 77-2724 and 77-2725 and the denominator of which is its total federal income after first adjusting each by the amounts provided in section 77-2716. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, reduced by the percentage of the total income which is attributable to income from sources outside this state, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all nonresident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Property Tax Incentive Act, and the Renewable Chemical Production Tax Credit Act. A nonrefundable income tax credit shall be allowed for all nonresident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the Opportunity Scholarships Act, the Nebraska Child Care Contribution Tax Credit Act, and section 77-27,238.

(2) In all instances wherein a fiduciary income tax return is required under the provisions of the Internal Revenue Code, a Nebraska fiduciary return shall be filed, except that a fiduciary return shall not be required to be filed regarding a simple trust if all of the trust's
beneficiaries are residents of the State of Nebraska, all of the trust's
income is derived from sources in this state, and the trust has no
federal tax liability. The fiduciary shall be responsible for making the
return for the estate or trust for which he or she acts, whether the
income be taxable to the estate or trust or to the beneficiaries thereof.
The fiduciary shall include in the return a statement of each
beneficiary's distributive share of net income when such income is
taxable to such beneficiaries.

(3) The beneficiaries of such estate or trust who are residents of
this state shall include in their income their proportionate share of
such estate's or trust's federal income and shall reduce their Nebraska
tax liability by their proportionate share of the credits as provided in
the Angel Investment Tax Credit Act, the Nebraska Advantage
Microenterprise Tax Credit Act, the Nebraska Advantage Research and
Development Act, the Nebraska Job Creation and Mainstreet Revitalization
Act, the New Markets Job Growth Investment Act, the School Readiness Tax
Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Property
Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, the
Opportunity Scholarships Act, the Nebraska Child Care Contribution Tax
Credit Act, and section 77-27,238. There shall be allowed to a
beneficiary a refundable income tax credit under the Beginning Farmer Tax
Credit Act for all taxable years beginning or deemed to begin on or after

(4) If any beneficiary of such estate or trust is a nonresident
during any part of the estate's or trust's taxable year, he or she shall
file a Nebraska income tax return which shall include (a) in Nebraska
adjusted gross income that portion of the estate's or trust's Nebraska
income, as determined under sections 77-2724 and 77-2725, allocable to
his or her interest in the estate or trust and (b) a reduction of the
Nebraska tax liability by his or her proportionate share of the credits
as provided in the Angel Investment Tax Credit Act, the Nebraska
Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Property Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, the Opportunity Scholarships Act, the Nebraska Child Care Contribution Tax Credit Act, and section 77-27,238 and shall execute and forward to the fiduciary, on or before the original due date of the Nebraska fiduciary return, an agreement which states that he or she will file a Nebraska income tax return and pay income tax on all income derived from or connected with sources in this state, and such agreement shall be attached to the Nebraska fiduciary return for such taxable year.

(5) In the absence of the nonresident beneficiary's executed agreement being attached to the Nebraska fiduciary return, the estate or trust shall remit a portion of such beneficiary's income which was derived from or attributable to Nebraska sources with its Nebraska return for the taxable year. For taxable years beginning or deemed to begin before January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. For taxable years beginning or deemed to begin on or after January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the beneficiary.

(6) The Tax Commissioner may allow a nonresident beneficiary to not file a Nebraska income tax return if the nonresident beneficiary's only source of Nebraska income was his or her share of the estate's or trust's
income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the estate or trust has remitted the amount required by subsection (5) of this section on behalf of such nonresident beneficiary. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident beneficiary.

(7) For purposes of this section, unless the context otherwise requires, simple trust shall mean any trust instrument which (a) requires that all income shall be distributed currently to the beneficiaries, (b) does not allow amounts to be paid, permanently set aside, or used in the tax year for charitable purposes, and (c) does not distribute amounts allocated in the corpus of the trust. Any trust which does not qualify as a simple trust shall be deemed a complex trust.

(8) For purposes of this section, any beneficiary of an estate or trust that is a grantor trust of a nonresident shall be disregarded and this section shall apply as though the nonresident grantor was the beneficiary.

Sec. 23. Section 77-2734.03, Revised Statutes Cumulative Supplement, 2020, is amended to read:

77-2734.03 (1)(a) For taxable years commencing prior to January 1, 1997, any (i) insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, (ii) electric cooperative organized under the Joint Public Power Authority Act, or (iii) credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with the amount paid during the taxable year as taxes on such premiums and assessments and taxes in lieu of intangible tax.

(b) For taxable years commencing on or after January 1, 1997, any insurer paying a tax on premiums and assessments pursuant to section 77-908 or 81-523, any electric cooperative organized under the Joint Public Power Authority Act, or any credit union shall be credited, in the computation of the tax due under the Nebraska Revenue Act of 1967, with
the amount paid during the taxable year as (i) taxes on such premiums and
assessments included as Nebraska premiums and assessments under section
77-2734.05 and (ii) taxes in lieu of intangible tax.

(c) For taxable years commencing or deemed to commence prior to, on,
or after January 1, 1998, any insurer paying a tax on premiums and
assessments pursuant to section 77-908 or 81-523 shall be credited, in
the computation of the tax due under the Nebraska Revenue Act of 1967,
with the amount paid during the taxable year as assessments allowed as an
offset against premium and related retaliatory tax liability pursuant to
section 44-4233.

(2) There shall be allowed to corporate taxpayers a tax credit for
contributions to community betterment programs as provided in the
Community Development Assistance Act.

(3) There shall be allowed to corporate taxpayers a refundable
income tax credit under the Beginning Farmer Tax Credit Act for all
taxable years beginning or deemed to begin on or after January 1, 2001,
under the Internal Revenue Code of 1986, as amended.

(4) The changes made to this section by Laws 2004, LB 983, apply to
motor fuels purchased during any tax year ending or deemed to end on or
after January 1, 2005, under the Internal Revenue Code of 1986, as
amended.

(5) There shall be allowed to corporate taxpayers refundable income
tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,
the Nebraska Advantage Research and Development Act, the Nebraska
Property Tax Incentive Act, and the Renewable Chemical Production Tax
Credit Act.

(6) There shall be allowed to corporate taxpayers a nonrefundable
income tax credit for investment in a biodiesel facility as provided in
section 77-27,236.

(7) There shall be allowed to corporate taxpayers a nonrefundable
income tax credit as provided in the Nebraska Job Creation and Mainstreet
Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the Opportunity Scholarships Act, the Nebraska Child Care Contribution Tax Credit Act, and section 77-27,238.

Sec. 24. This act becomes operative for all taxable years beginning or deemed to begin on or after January 1, 2022, under the Internal Revenue Code of 1986, as amended.

Sec. 25. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 26. Original sections 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Cumulative Supplement, 2020, are repealed.