

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 753**

Introduced by Linehan, 39; at the request of the Governor; Aguilar, 35; Albrecht, 17; Armendariz, 18; Ballard, 21; Brewer, 43; Briese, 41; Clements, 2; DeKay, 40; Dover, 19; Erdman, 47; Geist, 25; Halloran, 33; Hansen, B., 16; Hardin, 48; Holdcroft, 36; Hughes, 24; Ibach, 44; Jacobson, 42; Kauth, 31; Lippincott, 34; Lowe, 37; McDonnell, 5; McKinney, 11; Moser, 22; Murman, 38; Riepe, 12; Sanders, 45; Slama, 1; von Gillern, 4; Wayne, 13.

Read first time January 18, 2023

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Cumulative
- 3 Supplement, 2022; to adopt the Opportunity Scholarships Act; to
- 4 provide for tax credits; to harmonize provisions; to provide an
- 5 operative date; to provide for severability; and to repeal the
- 6 original sections.
- 7 Be it enacted by the people of the State of Nebraska,

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

3           Sec. 2. The Legislature finds that:

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

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

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

12          (4) Making it possible for more parents and legal guardians to be  
13 able to choose privately operated schools benefits Nebraska parents and  
14 taxpayers; and

15          (5) It is in the best interests of the State of Nebraska and its  
16 citizens to encourage individuals and businesses to support organizations  
17 that financially assist parents and legal guardians who want to enroll  
18 their children in privately operated elementary and secondary schools,  
19 and such encouragement can be accomplished through the use of tax  
20 credits.

21          Sec. 3. For purposes of the Opportunity Scholarships Act:

22          (1) Department means the Department of Revenue;

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

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

27          (a) Is a dependent member of a household that, for the most recently  
28 concluded calendar year before the student receives an education  
29 scholarship pursuant to the act, has a gross income which does not exceed  
30 the income indicated in the income eligibility guidelines for reduced  
31 price meals under the National School Lunch Program in 7 C.F.R. part 210,

1 as such part existed on January 1, 2023; and

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

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

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

14 (4) Qualified school means any nongovernmental, privately operated  
15 elementary or secondary school located in this state that (a) is operated  
16 not for profit, (b) complies with the antidiscrimination provisions of 42  
17 U.S.C. 1981 as such section existed on January 1, 2023, (c) complies with  
18 all health and life safety laws or codes that apply to privately operated  
19 schools, and (d) fulfills the applicable accreditation or approval  
20 requirements established by the State Board of Education pursuant to  
21 section 79-318;

22 (5) Scholarship-granting organization means a charitable  
23 organization in this state that is (a) exempt from federal income  
24 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of  
25 1986, as amended, and (b) certified pursuant to section 4 of this act to  
26 provide tax-credit-supported education scholarships to eligible students  
27 to assist them in attending qualified schools; and

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

31 Sec. 4. (1) An organization may apply to the department to become

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

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

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

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

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

15 (e) That the applicant will:

16 (i) Give first priority to:

17 (A) Eligible students who received an education scholarship from a  
18 scholarship-granting organization during the previous school year; and

19 (B) The sibling of a student who is receiving an education  
20 scholarship, so long as the sibling resides in the same household as such  
21 student;

22 (ii) Give second priority to:

23 (A) Eligible students whose household income levels do not exceed  
24 one hundred percent of the federal poverty level;

25 (B) Eligible students whose application for the enrollment option  
26 program established in section 79-234 has been denied;

27 (C) Eligible students who have an individualized education plan;

28 (D) Eligible students who are experiencing bullying, harassment,  
29 hazing, assault, battery, kidnapping, robbery, sexual offenses, threat or  
30 intimidation, or fighting at school;

31 (E) Eligible students who are in foster care; and

1       (F) Eligible students who are in a family with a parent or guardian  
2 actively serving in a branch of the armed forces of the United States or  
3 in the National Guard, or whose parent or guardian was killed serving in  
4 the line of duty;

5       (iii) Give third priority to eligible students whose household  
6 income levels exceed one hundred percent of the federal poverty level but  
7 do not exceed one hundred eighty-five percent of the federal poverty  
8 level;

9       (iv) Give fourth priority to eligible students whose household  
10 income levels exceed one hundred eighty-five percent of the federal  
11 poverty level but do not exceed two hundred thirteen percent of the  
12 federal poverty level; and

13       (v) Give fifth priority to all other eligible students, regardless  
14 of household income levels;

15       (f) That the applicant will limit the maximum scholarship amount  
16 awarded to any student to the cost of tuition and fees at the qualified  
17 school such student attends; and

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

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

30       Sec. 5. (1) An individual taxpayer who makes one or more cash  
31 contributions to one or more scholarship-granting organizations during a

1 tax year shall be eligible for a credit against the income tax due under  
2 the Nebraska Revenue Act of 1967. Except as otherwise provided in the  
3 Opportunity Scholarships Act, the amount of the credit shall be equal to  
4 the lesser of (a) the total amount of such contributions made during the  
5 tax year or (b) fifty percent of the income tax liability of such  
6 taxpayer for the tax year. A taxpayer may only claim a credit pursuant to  
7 this section for the portion of the contribution that was not claimed as  
8 a charitable contribution under the Internal Revenue Code.

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

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

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

21       (5) The tax credit allowed under this section is subject to section  
22 9 of this act.

23       Sec. 6. (1) Any partnership, limited liability company, or  
24 corporation having an election in effect under subchapter S of the  
25 Internal Revenue Code of 1986, as amended, that (a) is carrying on any  
26 trade or business for which deductions would be allowed under section 162  
27 of the Internal Revenue Code of 1986, as amended, or is carrying on any  
28 rental activity and (b) makes one or more cash contributions to one or  
29 more scholarship-granting organizations during a tax year shall be  
30 eligible for a credit against the income tax due under the Nebraska  
31 Revenue Act of 1967. Except as otherwise provided in the Opportunity

1 Scholarships Act, the amount of the credit shall be equal to the lesser  
2 of (a) the total amount of such contributions made during the tax year or  
3 (b) fifty percent of the income tax liability of such taxpayer for the  
4 tax year. A taxpayer may only claim a credit pursuant to this section for  
5 the portion of the contribution that was not claimed as a charitable  
6 contribution under the Internal Revenue Code. The credit shall be  
7 attributed to each partner, member, or shareholder in the same proportion  
8 used to report the partnership's, limited liability company's, or  
9 subchapter S corporation's income or loss for income tax purposes.

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

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

18 (4) The tax credit allowed under this section is subject to section  
19 9 of this act.

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

1 income from the estate or trust for income tax purposes.

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

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

10 (4) The tax credit allowed under this section is subject to section  
11 9 of this act.

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

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

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

31 (4) The tax credit allowed under this section is subject to section



1 9 of this act.

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

20       (2) In order to be allowed a tax credit as provided by the act, the  
21 taxpayer shall make its contribution between thirty-one and sixty days  
22 after notifying the scholarship-granting organization of the taxpayer's  
23 intent to make a contribution. If the scholarship-granting organization  
24 does not receive the contribution within the required time period, it  
25 shall notify the department of such fact and the department shall no  
26 longer include such amount when calculating whether the limit prescribed  
27 in subsection (3) of this section has been exceeded. If the scholarship-  
28 granting organization receives the contribution within the required time  
29 period, it shall provide the taxpayer with a receipt for the  
30 contribution. The receipt shall show the name and address of the  
31 scholarship-granting organization, the date the scholarship-granting

1 organization was certified by the department in accordance with section 4  
2 of this act, the name, address, and, if available, tax identification  
3 number of the taxpayer making the contribution, the amount of the  
4 contribution, and the date the contribution was received.

5 (3) The department shall consider notifications regarding intended  
6 tax credit amounts in the order in which they are received to ascertain  
7 whether the intended tax credit amounts are within the annual limit  
8 provided in this subsection. The annual limit on the total amount of tax  
9 credits for calendar year 2024 shall be twenty-five million dollars. The  
10 annual limit on the total amount of tax credits for calendar year 2025  
11 and each calendar year thereafter shall be calculated by taking the  
12 annual limit from the prior calendar year and then multiplying such  
13 amount by:

14 (a) One hundred twenty-five percent if the intended tax credit  
15 amounts in the prior calendar year exceeded ninety percent of the annual  
16 limit applicable to that calendar year; or

17 (b) One hundred percent if the intended tax credit amounts in the  
18 prior calendar year did not exceed ninety percent of the annual limit  
19 applicable to that calendar year.

20 (4) The State Department of Education and the Department of Revenue  
21 shall publish on their respective web sites information identifying the  
22 annual limit when it is increased pursuant to subsection (3) of this  
23 section.

24 (5) Once credits have reached the designated annual limit for any  
25 calendar year, no additional credits shall be allowed for such calendar  
26 year. Credits shall be prorated among the notifications received on the  
27 day the annual limit is exceeded.

28 Sec. 10. (1) In order for a scholarship-granting organization to  
29 remain certified under the Opportunity Scholarships Act, the scholarship-  
30 granting organization shall allocate its revenue as follows:

31 (a) If the annual limit on tax credits under section 9 of this act

1 is less than thirty-five million dollars, the scholarship-granting  
2 organization shall allocate at least ninety percent of its revenue for  
3 education scholarships and no more than ten percent of its revenue shall  
4 be used or reserved for administrative costs; or

5 (b) If the annual limit on tax credits under section 9 of this act  
6 is thirty-five million dollars or more, the scholarship-granting  
7 organization shall allocate at least ninety-five percent of its revenue  
8 for education scholarships, and no more than five percent of its revenue  
9 shall be used or reserved for administrative costs.

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

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

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

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

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

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

10          Sec. 14. Section 77-2715.07, Revised Statutes Cumulative Supplement,  
11 2022, is amended to read:

12          77-2715.07 (1) There shall be allowed to qualified resident  
13 individuals as a nonrefundable credit against the income tax imposed by  
14 the Nebraska Revenue Act of 1967:

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

17           (b) A credit for taxes paid to another state as provided in section  
18 77-2730.

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

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

31           (b) For returns filed reporting federal adjusted gross income of

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

15 (c) A refundable credit as provided in section 77-5209.01 for  
16 individuals who qualify for an income tax credit as a qualified beginning  
17 farmer or livestock producer under the Beginning Farmer Tax Credit Act  
18 for all taxable years beginning or deemed to begin on or after January 1,  
19 2006, under the Internal Revenue Code of 1986, as amended;

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

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

1 eligibility for the federal credit.

2 (3) There shall be allowed to all individuals as a nonrefundable  
3 credit against the income tax imposed by the Nebraska Revenue Act of  
4 1967:

5 (a) A credit for personal exemptions allowed under section  
6 77-2716.01;

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

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

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

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

20 (f) A credit to employers as provided in sections 77-27,238 and  
21 77-27,240; ~~and~~

22 (g) A credit as provided in the Affordable Housing Tax Credit Act;  
23 and -

24 (h) A credit as provided in the Opportunity Scholarships Act.

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

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

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

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

12 (5)(a) For all taxable years beginning on or after January 1, 2007,  
13 and before January 1, 2009, under the Internal Revenue Code of 1986, as  
14 amended, there shall be allowed to each partner, shareholder, member, or  
15 beneficiary of a partnership, subchapter S corporation, limited liability  
16 company, or estate or trust a nonrefundable credit against the income tax  
17 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the  
18 partner's, shareholder's, member's, or beneficiary's portion of the  
19 amount of franchise tax paid to the state under sections 77-3801 to  
20 77-3807 by a financial institution.

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

29 (c) Each partner, shareholder, member, or beneficiary shall report  
30 his or her share of the credit in the same manner and proportion as he or  
31 she reports the partnership, subchapter S corporation, limited liability

1 company, or estate or trust income. If any partner, shareholder, member,  
2 or beneficiary cannot fully utilize the credit for that year, the credit  
3 may not be carried forward or back.

4 (6) There shall be allowed to all individuals nonrefundable credits  
5 against the income tax imposed by the Nebraska Revenue Act of 1967 as  
6 provided in section 77-3604 and refundable credits against the income tax  
7 imposed by the Nebraska Revenue Act of 1967 as provided in section  
8 77-3605.

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

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

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

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

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

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

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

31 (e) For purposes of this subsection, family member means an



1 individual's spouse, child, parent, brother, sister, grandchild, or  
2 grandparent, whether by blood, marriage, or adoption.

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

8 (9)(a) For taxable years beginning or deemed to begin on or after  
9 January 1, 2022, under the Internal Revenue Code of 1986, as amended, a  
10 refundable credit against the income tax imposed by the Nebraska Revenue  
11 Act of 1967 shall be allowed to the parent of a stillborn child if:

12 (i) A fetal death certificate is filed pursuant to subsection (1) of  
13 section 71-606 for such child;

14 (ii) Such child had advanced to at least the twentieth week of  
15 gestation; and

16 (iii) Such child would have been a dependent of the individual  
17 claiming the credit.

18 (b) The amount of the credit shall be two thousand dollars.

19 (c) The credit shall be allowed for the taxable year in which the  
20 stillbirth occurred.

21 Sec. 15. Section 77-2717, Revised Statutes Cumulative Supplement,  
22 2022, is amended to read:

23 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin  
24 before January 1, 2014, the tax imposed on all resident estates and  
25 trusts shall be a percentage of the federal taxable income of such  
26 estates and trusts as modified in section 77-2716, plus a percentage of  
27 the federal alternative minimum tax and the federal tax on premature or  
28 lump-sum distributions from qualified retirement plans. The additional  
29 taxes shall be recomputed by (A) substituting Nebraska taxable income for  
30 federal taxable income, (B) calculating what the federal alternative  
31 minimum tax would be on Nebraska taxable income and adjusting such

1 calculations for any items which are reflected differently in the  
2 determination of federal taxable income, and (C) applying Nebraska rates  
3 to the result. The federal credit for prior year minimum tax, after the  
4 recomputations required by the Nebraska Revenue Act of 1967, and the  
5 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act  
6 and the Nebraska Advantage Research and Development Act shall be allowed  
7 as a reduction in the income tax due. A refundable income tax credit  
8 shall be allowed for all resident estates and trusts under the Angel  
9 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax  
10 Credit Act, and the Nebraska Advantage Research and Development Act. A  
11 nonrefundable income tax credit shall be allowed for all resident estates  
12 and trusts as provided in the New Markets Job Growth Investment Act.

13 (ii) For taxable years beginning or deemed to begin on or after  
14 January 1, 2014, the tax imposed on all resident estates and trusts shall  
15 be a percentage of the federal taxable income of such estates and trusts  
16 as modified in section 77-2716, plus a percentage of the federal tax on  
17 premature or lump-sum distributions from qualified retirement plans. The  
18 additional taxes shall be recomputed by substituting Nebraska taxable  
19 income for federal taxable income and applying Nebraska rates to the  
20 result. The credits provided in the Nebraska Advantage Microenterprise  
21 Tax Credit Act and the Nebraska Advantage Research and Development Act  
22 shall be allowed as a reduction in the income tax due. A refundable  
23 income tax credit shall be allowed for all resident estates and trusts  
24 under the Angel Investment Tax Credit Act, the Nebraska Advantage  
25 Microenterprise Tax Credit Act, the Nebraska Advantage Research and  
26 Development Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska  
27 Property Tax Incentive Act, and the Renewable Chemical Production Tax  
28 Credit Act. A nonrefundable income tax credit shall be allowed for all  
29 resident estates and trusts as provided in the Nebraska Job Creation and  
30 Mainstreet Revitalization Act, the New Markets Job Growth Investment Act,  
31 the School Readiness Tax Credit Act, the Affordable Housing Tax Credit

1 Act, the Opportunity Scholarships Act, and sections 77-27,238 and  
2 77-27,240.

3 (b) The tax imposed on all nonresident estates and trusts shall be  
4 the portion of the tax imposed on resident estates and trusts which is  
5 attributable to the income derived from sources within this state. The  
6 tax which is attributable to income derived from sources within this  
7 state shall be determined by multiplying the liability to this state for  
8 a resident estate or trust with the same total income by a fraction, the  
9 numerator of which is the nonresident estate's or trust's Nebraska income  
10 as determined by sections 77-2724 and 77-2725 and the denominator of  
11 which is its total federal income after first adjusting each by the  
12 amounts provided in section 77-2716. The federal credit for prior year  
13 minimum tax, after the recomputations required by the Nebraska Revenue  
14 Act of 1967, reduced by the percentage of the total income which is  
15 attributable to income from sources outside this state, and the credits  
16 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the  
17 Nebraska Advantage Research and Development Act shall be allowed as a  
18 reduction in the income tax due. A refundable income tax credit shall be  
19 allowed for all nonresident estates and trusts under the Angel Investment  
20 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,  
21 the Nebraska Advantage Research and Development Act, the Nebraska Higher  
22 Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the  
23 Renewable Chemical Production Tax Credit Act. A nonrefundable income tax  
24 credit shall be allowed for all nonresident estates and trusts as  
25 provided in the Nebraska Job Creation and Mainstreet Revitalization Act,  
26 the New Markets Job Growth Investment Act, the School Readiness Tax  
27 Credit Act, the Affordable Housing Tax Credit Act, the Opportunity  
28 Scholarships Act, and sections 77-27,238 and 77-27,240.

29 (2) In all instances wherein a fiduciary income tax return is  
30 required under the provisions of the Internal Revenue Code, a Nebraska  
31 fiduciary return shall be filed, except that a fiduciary return shall not

1 be required to be filed regarding a simple trust if all of the trust's  
2 beneficiaries are residents of the State of Nebraska, all of the trust's  
3 income is derived from sources in this state, and the trust has no  
4 federal tax liability. The fiduciary shall be responsible for making the  
5 return for the estate or trust for which he or she acts, whether the  
6 income be taxable to the estate or trust or to the beneficiaries thereof.  
7 The fiduciary shall include in the return a statement of each  
8 beneficiary's distributive share of net income when such income is  
9 taxable to such beneficiaries.

10 (3) The beneficiaries of such estate or trust who are residents of  
11 this state shall include in their income their proportionate share of  
12 such estate's or trust's federal income and shall reduce their Nebraska  
13 tax liability by their proportionate share of the credits as provided in  
14 the Angel Investment Tax Credit Act, the Nebraska Advantage  
15 Microenterprise Tax Credit Act, the Nebraska Advantage Research and  
16 Development Act, the Nebraska Job Creation and Mainstreet Revitalization  
17 Act, the New Markets Job Growth Investment Act, the School Readiness Tax  
18 Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Higher  
19 Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the  
20 Renewable Chemical Production Tax Credit Act, the Opportunity  
21 Scholarships Act, and sections 77-27,238 and 77-27,240. There shall be  
22 allowed to a beneficiary a refundable income tax credit under the  
23 Beginning Farmer Tax Credit Act for all taxable years beginning or deemed  
24 to begin on or after January 1, 2001, under the Internal Revenue Code of  
25 1986, as amended.

26 (4) If any beneficiary of such estate or trust is a nonresident  
27 during any part of the estate's or trust's taxable year, he or she shall  
28 file a Nebraska income tax return which shall include (a) in Nebraska  
29 adjusted gross income that portion of the estate's or trust's Nebraska  
30 income, as determined under sections 77-2724 and 77-2725, allocable to  
31 his or her interest in the estate or trust and (b) a reduction of the

1 Nebraska tax liability by his or her proportionate share of the credits  
2 as provided in the Angel Investment Tax Credit Act, the Nebraska  
3 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research  
4 and Development Act, the Nebraska Job Creation and Mainstreet  
5 Revitalization Act, the New Markets Job Growth Investment Act, the School  
6 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the  
7 Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive  
8 Act, the Renewable Chemical Production Tax Credit Act, the Opportunity  
9 Scholarships Act, and sections 77-27,238 and 77-27,240 and shall execute  
10 and forward to the fiduciary, on or before the original due date of the  
11 Nebraska fiduciary return, an agreement which states that he or she will  
12 file a Nebraska income tax return and pay income tax on all income  
13 derived from or connected with sources in this state, and such agreement  
14 shall be attached to the Nebraska fiduciary return for such taxable year.

15 (5) In the absence of the nonresident beneficiary's executed  
16 agreement being attached to the Nebraska fiduciary return, the estate or  
17 trust shall remit a portion of such beneficiary's income which was  
18 derived from or attributable to Nebraska sources with its Nebraska return  
19 for the taxable year. For taxable years beginning or deemed to begin  
20 before January 1, 2013, the amount of remittance, in such instance, shall  
21 be the highest individual income tax rate determined under section  
22 77-2715.02 multiplied by the nonresident beneficiary's share of the  
23 estate or trust income which was derived from or attributable to sources  
24 within this state. For taxable years beginning or deemed to begin on or  
25 after January 1, 2013, the amount of remittance, in such instance, shall  
26 be the highest individual income tax rate determined under section  
27 77-2715.03 multiplied by the nonresident beneficiary's share of the  
28 estate or trust income which was derived from or attributable to sources  
29 within this state. The amount remitted shall be allowed as a credit  
30 against the Nebraska income tax liability of the beneficiary.

31 (6) The Tax Commissioner may allow a nonresident beneficiary to not

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

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

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

20 Sec. 16. Section 77-2734.03, Revised Statutes Cumulative Supplement,  
21 2022, is amended to read:

22 77-2734.03 (1)(a) For taxable years commencing prior to January 1,  
23 1997, any (i) insurer paying a tax on premiums and assessments pursuant  
24 to section 77-908 or 81-523, (ii) electric cooperative organized under  
25 the Joint Public Power Authority Act, or (iii) credit union shall be  
26 credited, in the computation of the tax due under the Nebraska Revenue  
27 Act of 1967, with the amount paid during the taxable year as taxes on  
28 such premiums and assessments and taxes in lieu of intangible tax.

29 (b) For taxable years commencing on or after January 1, 1997, any  
30 insurer paying a tax on premiums and assessments pursuant to section  
31 77-908 or 81-523, any electric cooperative organized under the Joint

1 Public Power Authority Act, or any credit union shall be credited, in the  
2 computation of the tax due under the Nebraska Revenue Act of 1967, with  
3 the amount paid during the taxable year as (i) taxes on such premiums and  
4 assessments included as Nebraska premiums and assessments under section  
5 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

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

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

1           (7) There shall be allowed to corporate taxpayers a nonrefundable  
2 income tax credit as provided in the Nebraska Job Creation and Mainstreet  
3 Revitalization Act, the New Markets Job Growth Investment Act, the School  
4 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the  
5 Opportunity Scholarships Act, and sections 77-27,238 and 77-27,240.

6           Sec. 17. This act becomes operative for all taxable years beginning  
7 or deemed to begin on or after January 1, 2024, under the Internal  
8 Revenue Code of 1986, as amended.

9           Sec. 18. If any section in this act or any part of any section is  
10 declared invalid or unconstitutional, the declaration shall not affect  
11 the validity or constitutionality of the remaining portions.

12           Sec. 19. Original sections 77-2715.07, 77-2717, and 77-2734.03,  
13 Revised Statutes Cumulative Supplement, 2022, are repealed.