

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 182

FINAL READING

Introduced by Bostar, 29; Hallstrom, 1.

Read first time January 13, 2025

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2506 and 81-523, Reissue Revised Statutes of Nebraska, and
3 sections 77-908, 77-2502, 77-2503, 77-2508, 77-3806, 77-7202, and
4 77-7204, Revised Statutes Cumulative Supplement, 2024; to define,
5 redefine, and eliminate terms and change provisions relating to the
6 allocation, transfer, sale, and assignment of tax credits under the
7 Affordable Housing Tax Credit Act; to authorize additional uses of
8 the tax credits granted under the Child Care Tax Credit Act; to
9 harmonize provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 77-908, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 77-908 Every insurance company organized under the stock, mutual,
4 assessment, or reciprocal plan, except fraternal benefit societies, which
5 is transacting business in this state shall, on or before March 1 of each
6 year, pay a tax to the director of one percent of the gross amount of
7 direct writing premiums received by it during the preceding calendar year
8 for business done in this state, except that (1) for group sickness and
9 accident insurance the rate of such tax shall be five-tenths of one
10 percent and (2) for property and casualty insurance, excluding individual
11 sickness and accident insurance, the rate of such tax shall be one
12 percent. A captive insurer authorized under the Captive Insurers Act that
13 is transacting business in this state shall, on or before March 1 of each
14 year, pay to the director a tax of one-fourth of one percent of the gross
15 amount of direct writing premiums received by such insurer during the
16 preceding calendar year for business transacted in the state. The taxable
17 premiums shall include premiums paid on the lives of persons residing in
18 this state and premiums paid for risks located in this state whether the
19 insurance was written in this state or not, including that portion of a
20 group premium paid which represents the premium for insurance on Nebraska
21 residents or risks located in Nebraska included within the group when the
22 number of lives in the group exceeds five hundred. The tax shall also
23 apply to premiums received by domestic companies for insurance written on
24 individuals residing outside this state or risks located outside this
25 state if no comparable tax is paid by the direct writing domestic company
26 to any other appropriate taxing authority. Companies whose scheme of
27 operation contemplates the return of a portion of premiums to
28 policyholders, without such policyholders being claimants under the terms
29 of their policies, may deduct such return premiums or dividends from
30 their gross premiums for the purpose of tax calculations. Any such
31 insurance company shall receive a credit on the tax imposed as provided

1 in the Creating High Impact Economic Futures Act, the Nebraska Job
2 Creation and Mainstreet Revitalization Act, the New Markets Job Growth
3 Investment Act, the Nebraska Higher Blend Tax Credit Act, the Relocation
4 Incentive Act, the Sustainable Aviation Fuel Tax Credit Act, the Nebraska
5 Shortline Rail Modernization Act, the Child Care Tax Credit Act, and the
6 Affordable Housing Tax Credit Act.

7 **Sec. 2.** Section 77-2502, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 77-2502 For purposes of the Affordable Housing Tax Credit Act:

10 (1) Allocation year means the year for which the authority awards
11 Nebraska affordable housing tax credits pursuant to the act;

12 (2) Authority means the Nebraska Investment Finance Authority;

13 (3) Eligibility statement means a statement authorized and issued by
14 the authority certifying that a given project is a qualified project that
15 qualifies for Nebraska affordable housing tax credits;

16 (4) Federal low-income housing tax credit means the federal tax
17 credit provided in section 42 of the Internal Revenue Code of 1986, as
18 amended;

19 (5) Nebraska affordable housing tax credit means the nonrefundable
20 tax credit authorized in section 77-2503;

21 (6) Pass-through entity means (a) a partnership, (b) a limited
22 liability company, or (c) a corporation having an election in effect
23 under subchapter S of the Internal Revenue Code of 1986, as amended;

24 (7) {6} Qualified project means a qualified low-income building or
25 buildings, as that term is defined in section 42 of the Internal Revenue
26 Code of 1986, as amended; and

27 ~~(7) Qualified taxpayer means a taxpayer owning an interest, direct~~
28 ~~or indirect, in a qualified project; and~~

29 (8) Taxpayer means a person, firm, corporation, or other business
30 entity subject to the income tax imposed by section 77-2715 or
31 77-2734.02, an insurance company subject to premium and related

1 retaliatory tax liability imposed by section 44-150, 77-908, or 81-523,
2 ~~or a financial institution subject to the franchise tax imposed by~~
3 ~~sections 77-3801 to 77-3807, or a nonprofit corporation of the type~~
4 ~~listed in 26 U.S.C. 501(c)(3) or 26 U.S.C. 501(c)(4).~~

5 **Sec. 3.** Section 77-2503, Revised Statutes Cumulative Supplement,
6 2024, is amended to read:

7 77-2503 (1) An owner of an affordable housing project seeking a
8 Nebraska affordable housing tax credit shall file an application with the
9 authority on a form prescribed by the authority. An owner shall be
10 allowed a nonrefundable tax credit if the authority determines that (a)
11 the project for which tax credits are sought is a qualified project and
12 (b) tax credits are available. ~~A qualified taxpayer shall be allowed a~~
13 ~~nonrefundable tax credit if the authority determines that the project for~~
14 ~~which tax credits are sought is a qualified project.~~

15 (2) If the requirements of subsection (1) of this section are met,
16 the authority shall issue an eligibility statement to the owner of such
17 qualified project stating the amount of Nebraska affordable housing tax
18 credits allocated to the qualified project. The amount of such tax
19 credits shall be the amount of federal low-income housing tax credits
20 available to such project, except as otherwise provided in subsection (4)
21 of this section. Tax credits for each building in a qualified project
22 shall be issued for the first six years of the credit period as defined
23 in 26 U.S.C. 42(f)(1), except that any reduction in the credit allowable
24 in the first year of the credit period due to the calculation in 26
25 U.S.C. 42(f)(2) shall be allowable in the seventh year of the credit
26 period. The authority shall only allocate tax credits to qualified
27 projects that are placed in service after January 1, 2018.

28 (3) If the owner of the qualified project is a pass-through entity,
29 the Nebraska affordable housing tax credit shall be allocated among some
30 or all of the partners, members, or shareholders of the owner of the
31 qualified project. Any pass-through entity that receives an allocation of

1 the Nebraska affordable housing tax credit, either from the owner of the
2 qualified project or from another pass-through entity, may (a) further
3 allocate the tax credit among some or all of the partners, members, or
4 shareholders, or (b) transfer, sell, or assign all or a portion of the
5 tax credit to a taxpayer. A pass-through entity may allocate the tax
6 credit in any manner agreed to by its partners, members, or shareholders.
7 A partner, member, or shareholder allocated a tax credit must have been
8 admitted as a partner or member, or have acquired his or her shares, on
9 or prior to February 15 of the year in which the tax return, or amended
10 return, claiming the tax credit is filed. A partner, member, or
11 shareholder of a pass-through entity may transfer, sell, or assign all or
12 part of his or her ownership interest, including his or her interest in
13 the tax credits authorized in this section. A taxpayer may transfer,
14 sell, or assign all or a portion of the tax credit to another taxpayer. A
15 taxpayer must have received a transfer or assignment of a tax credit
16 prior to the date a tax return, or amended return, claiming the tax
17 credit is filed. For any tax year in which a credit is allocated,
18 transferred, sold, or assigned pursuant to this subsection, the pass-
19 through entity allocating the tax credit, or taxpayer transferring,
20 selling, or assigning the tax credit, as applicable, shall notify the
21 Department of Revenue of the allocation, transfer, sale, or assignment
22 and provide the tax identification number of the allocatee or transferee
23 at least thirty days prior to the taxpayer claiming the tax credit. The
24 notification shall be in the manner prescribed by the department.

25 ~~(3) If the owner of the qualified project is (a) a partnership, (b)~~
26 ~~a limited liability company, or (c) a corporation having an election in~~
27 ~~effect under subchapter S of the Internal Revenue Code of 1986, as~~
28 ~~amended, the Nebraska affordable housing tax credit shall be allocated~~
29 ~~among some or all of the partners, members, or shareholders of the owner~~
30 ~~of the qualified project in any manner agreed to by such persons, but~~
31 ~~only if such persons have been admitted as partners or members, or have~~

1 ~~acquired their shares, on or prior to February 15 of the year in which~~
2 ~~the tax return, or amended return, claiming the tax credit is filed. A~~
3 ~~qualified taxpayer may transfer, sell, or assign all or part of his or~~
4 ~~her ownership interest, including his or her interest in the tax credits~~
5 ~~authorized in this section. For any tax year in which such an interest is~~
6 ~~transferred, sold, or assigned pursuant to this subsection, the~~
7 ~~transferor shall notify the Department of Revenue of the transfer, sale,~~
8 ~~or assignment and provide the tax identification number of the new owner~~
9 ~~at least thirty days prior to the new owner claiming the tax credits. The~~
10 ~~notification shall be in the manner prescribed by the department.~~

11 (4) The maximum amount of Nebraska affordable housing tax credits
12 awarded to all qualified projects in any given allocation year shall be
13 no more than one hundred percent of the total amount of federal low-
14 income housing tax credits awarded by the authority in the same
15 allocation year. Notwithstanding any other provision of the Affordable
16 Housing Tax Credit Act, the authority is prohibited from awarding to a
17 qualified project any combined amount of federal low-income housing tax
18 credits and Nebraska affordable housing tax credits that is more than
19 necessary to make the qualified project financially feasible.

20 (5) Any Nebraska affordable housing tax credits granted under this
21 section may be used to offset any income taxes due under section 77-2715
22 or 77-2734.02, any premium and related retaliatory taxes due under
23 section 44-150, 77-908, or 81-523, or any franchise taxes due under
24 sections 77-3801 to 77-3807.

25 (6) The tax credit shall not be used to reduce the tax liability of
26 the ~~qualified~~ taxpayer to less than zero. Any tax credit claimed but not
27 used in a taxable year may be carried forward.

28 **Sec. 4.** Section 77-2506, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 77-2506 If a portion of any federal low-income housing tax credits
31 taken on a qualified project is required to be recaptured or is otherwise

1 disallowed under 26 U.S.C. 42 during the 6-year period described in
2 subsection (2) of section 77-2503, a portion of the Nebraska affordable
3 housing tax credits with respect to such project shall also be recaptured
4 from the ~~qualified~~ taxpayer who claimed such credits. The percentage of
5 Nebraska affordable housing tax credits subject to recapture under this
6 section shall be equal to the percentage of federal low-income housing
7 tax credits subject to recapture or otherwise disallowed during such
8 period. Any Nebraska affordable housing tax credits recaptured or
9 disallowed under this section shall increase the tax liability of the
10 ~~qualified~~ taxpayer who claimed the credits in the year the Department of
11 Revenue declares the tax credits to be disallowed or recaptured.

12 **Sec. 5.** Section 77-2508, Revised Statutes Cumulative Supplement,
13 2024, is amended to read:

14 77-2508 (1) The changes made in sections 77-2502, 77-2503, and
15 77-2505 by Laws 2022, LB800, shall apply to taxable years beginning or
16 deemed to begin on or after January 1, 2023.

17 (2) The changes made in sections 77-2502, 77-2503, and 77-2506 by
18 this legislative bill shall apply to taxable years beginning or deemed to
19 begin on or after January 1, 2024.

20 **Sec. 6.** Section 77-3806, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 77-3806 (1) The tax return shall be filed and the total amount of
23 the franchise tax shall be due on the fifteenth day of the third month
24 after the end of the taxable year. No extension of time to pay the tax
25 shall be granted. If the Tax Commissioner determines that the amount of
26 tax can be computed from available information filed by the financial
27 institutions with either state or federal regulatory agencies, the Tax
28 Commissioner may, by regulation, waive the requirement for the financial
29 institutions to file returns.

30 (2) Sections 77-2714 to 77-27,135 relating to deficiencies,
31 penalties, interest, the collection of delinquent amounts, and appeal

1 procedures for the tax imposed by section 77-2734.02 shall also apply to
2 the tax imposed by section 77-3802. If the filing of a return is waived
3 by the Tax Commissioner, the payment of the tax shall be considered the
4 filing of a return for purposes of sections 77-2714 to 77-27,135.

5 (3) No refund of the tax imposed by section 77-3802 shall be allowed
6 unless a claim for such refund is filed within ninety days of the date on
7 which (a) the tax is due or was paid, whichever is later, (b) a change is
8 made to the amount of deposits or the net financial income of the
9 financial institution by a state or federal regulatory agency, or (c) the
10 Nebraska Investment Finance Authority issues an eligibility statement to
11 the financial institution pursuant to the Affordable Housing Tax Credit
12 Act.

13 (4) Any such financial institution shall receive a credit on the
14 franchise tax as provided under the Affordable Housing Tax Credit Act,
15 the Creating High Impact Economic Futures Act, the Nebraska Higher Blend
16 Tax Credit Act, the Nebraska Job Creation and Mainstreet Revitalization
17 Act, the Nebraska Property Tax Incentive Act, the Relocation Incentive
18 Act, the New Markets Job Growth Investment Act, the Sustainable Aviation
19 Fuel Tax Credit Act, the Child Care Tax Credit Act, and the Nebraska
20 Shortline Rail Modernization Act.

21 **Sec. 7.** Section 77-7202, Revised Statutes Cumulative Supplement,
22 2024, is amended to read:

23 77-7202 For purposes of the Child Care Tax Credit Act:

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

25 (2) Department means the Department of Revenue;

26 (3) Eligible program means a program that is licensed as a family
27 child care home I, family child care home II, child care center, or
28 preschool and operates as a for-profit child care business or is a
29 nonprofit organization under the Internal Revenue Code of 1986, as
30 amended;

31 (4) Intermediary means any organization that distributes funds for

1 the purpose of supporting an eligible program;

2 (5) Parent or legal guardian means an individual who claims a child
3 as a dependent for federal income tax purposes;

4 (6) Qualifying contribution means a contribution in the form of
5 cash, check, cash equivalent, agricultural commodity, livestock, or
6 publicly traded security that is made:

7 (a) For the establishment or operation of an eligible program;

8 (b) For the establishment of a grant or loan program for parents
9 requiring financial assistance for an eligible program;

10 (c) To an early childhood collaborative or another intermediary to
11 provide training, technical assistance, or mentorship to child care
12 providers;

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

16 (e) To a for-profit child care business, including family home
17 providers. The for-profit child care business must use the proceeds of a
18 qualifying contribution for (i) the acquisition or improvement of child
19 care facilities, (ii) the acquisition of equipment, (iii) providing
20 services, or (iv) employee retention; or

21 (f) To an intermediary for the establishment or operation of an
22 eligible program or for the establishment of a grant or loan program for
23 parents requiring financial assistance for an eligible program;

24 (7) Taxpayer means any person subject to the income tax imposed by
25 the Nebraska Revenue Act of 1967, including ~~The term includes~~ resident
26 and nonresident individuals, estates, trusts, and corporations, an
27 insurance company subject to premium and related retaliatory tax
28 liability imposed by section 44-150, 77-908, or 81-523, or a financial
29 institution subject to the franchise tax imposed by sections 77-3801 to
30 77-3807; and

31 (8) Total household income means federal modified adjusted gross

1 income.

2 **Sec. 8.** Section 77-7204, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 77-7204 (1) For taxable years beginning or deemed to begin on or
5 after January 1, 2024, under the Internal Revenue Code of 1986, as
6 amended, any taxpayer who makes a qualifying contribution during the
7 taxable year shall be eligible to receive a credit that may be used to
8 offset any income taxes due under ~~against the income tax imposed by the~~
9 Nebraska Revenue Act of 1967, any premium and related retaliatory taxes
10 due under section 44-150, 77-908, or 81-523, or any franchise taxes due
11 under sections 77-3801 to 77-3807.

12 (2) The credit provided in this section shall be a nonrefundable
13 credit equal to either one hundred percent or seventy-five percent of the
14 taxpayer's qualifying contribution made during the taxable year, except
15 that the credit for a taxpayer shall not exceed one hundred thousand
16 dollars for any single taxable year.

17 (3) The credit shall be equal to one hundred percent of the
18 qualifying contribution if:

19 (a) The eligible program that receives the contribution has a
20 physical presence in an opportunity zone in this state designated
21 pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97; or

22 (b) The eligible program that receives the contribution has at least
23 one child enrolled in the child care subsidy program established pursuant
24 to sections 68-1202 and 68-1206 and the child care provider is actively
25 caring and billing for the child as verified by the Department of Health
26 and Human Services. Attracting child care providers into the child care
27 subsidy program and retaining providers in the program are directly
28 connected to the administration of the program. Verifying that the child
29 care provider is actively caring and billing for an eligible child is in
30 furtherance of the child care subsidy program. The Department of Revenue
31 shall not use any verification information obtained from the Department

1 of Health and Human Services except for purposes directly connected with
2 the administration of the Child Care Tax Credit Act.

3 (4) The credit shall be equal to seventy-five percent of the
4 qualifying contribution if subsection (3) of this section does not apply.

5 (5) A taxpayer shall not be eligible for the credit provided in this
6 section if the taxpayer claimed a charitable contribution deduction for
7 the qualifying contribution on the taxpayer's federal income tax return.

8 (6) A taxpayer shall apply for the credit provided in this section
9 by submitting an application to the department with the following
10 information:

11 (a) Documentation to show that the contribution is a qualifying
12 contribution; and

13 (b) Any other documentation required by the department.

14 (7) Subject to subsection (8) of this section, if the department
15 determines that the taxpayer qualifies for tax credits under this
16 section, the department shall approve the application and certify the
17 amount of credits approved to the taxpayer.

18 (8) The department shall consider applications in the order in which
19 they are received and may approve tax credits under this section each
20 year until the total amount of credits approved for the year equals two
21 million five hundred thousand dollars.

22 (9) If a taxpayer's credit under this section exceeds the total tax
23 due, the taxpayer may carry forward the excess credit for up to five
24 taxable years after the taxable year in which the credit was first
25 allowed, but the taxpayer must use the carryover credit in the earliest
26 taxable year possible.

27 (10) A contribution shall not qualify for a credit under this
28 section if the contribution is made to a child care provider in which the
29 taxpayer or a person related to the taxpayer has a financial interest,
30 unless the contribution is part of a bona fide arm's length transaction.

31 (11) A taxpayer claiming a tax credit under this section against any

1 premium and related retaliatory taxes due under section 44-150, 77-908,
2 or 81-523 shall not be required to pay any additional retaliatory tax as
3 a result of claiming the tax credit. The tax credit may fully offset any
4 retaliatory tax imposed under Nebraska law. Any tax credit claimed shall
5 be considered a payment of tax for purposes of subsection (1) of section
6 77-2734.03.

7 **Sec. 9.** Section 81-523, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 81-523 (1) For the purpose of maintaining the office of the State
10 Fire Marshal and such other fire prevention activities as the Governor
11 may direct, every foreign and alien insurance company including
12 nonresident attorneys for subscribers to reciprocal insurance exchanges
13 shall, on or before March 1, pay a tax to the Director of Insurance of
14 three-fourths of one percent of the gross direct writing premiums and
15 assessments received by each of such companies during the preceding
16 calendar year for fire insurance business done in this state.

17 (2) For the purpose set forth in subsection (1) of this section,
18 every domestic insurance company including resident attorneys for
19 subscribers to reciprocal insurance exchanges shall, on or before March
20 1, pay a tax to the Director of Insurance of three-eighths of one percent
21 of the gross direct writing premiums and assessments received by each of
22 such companies during the preceding calendar year for fire insurance
23 business done in this state.

24 (3) The term fire insurance business, as used in subsections (1),
25 (2), and (4) of this section, shall include, but not be limited to,
26 premiums of policies on fire risks on automobiles, whether written under
27 floater form or otherwise.

28 (4) Return premiums on fire insurance business, subject to the fire
29 insurance tax, in accordance with subsections (1) and (2) of this
30 section, may be deducted from the gross direct writing premiums for the
31 purpose of the tax calculations provided for by subsections (1) and (2)

1 of this section. In the case of mutual companies and assessment
2 associations, the dividends paid or credited to policyholders or members
3 in this state shall be construed to be return premiums.

4 (5) Any tax collected pursuant to subsections (1) and (2) of this
5 section shall be remitted to the State Treasurer for credit to the
6 General Fund.

7 (6) An insurance company described in this section shall receive a
8 credit on the tax imposed under this section as provided in the
9 Affordable Housing Tax Credit Act, the Child Care Tax Credit Act, and the
10 Relocation Incentive Act.

11 **Sec. 10.** Original sections 77-2506 and 81-523, Reissue Revised
12 Statutes of Nebraska, and sections 77-908, 77-2502, 77-2503, 77-2508,
13 77-3806, 77-7202, and 77-7204, Revised Statutes Cumulative Supplement,
14 2024, are repealed.