

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 897

Introduced by Cook, 13.

Read first time January 14, 2014

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701, 77-2715.07, and 77-2734.03, Revised Statutes
3 Cumulative Supplement, 2012, and section 77-2717, Revised
4 Statutes Supplement, 2013; to provide an income tax
5 credit to employers of public assistance recipients as
6 prescribed; to harmonize provisions; and to repeal the
7 original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
4 77-27,236 and section 2 of this act shall be known and may be cited
5 as the Nebraska Revenue Act of 1967.

6 Sec. 2. (1) For taxable years beginning or deemed to
7 begin on or after January 1, 2015, there shall be allowed to an
8 employer of any person receiving public assistance pursuant to the
9 Welfare Reform Act a nonrefundable credit, for not more than two
10 years, against the income tax imposed by the Nebraska Revenue Act of
11 1967 in the amount of twenty percent of the employer's annual
12 expenditures for any one or more of the following services that are
13 incidental to the employer's business:

14 (a) The provision of basic education provided by a public
15 institution of postsecondary education;

16 (b) The provision of health or dental insurance for
17 employees receiving such public assistance, which health or dental
18 insurance coverage, if less than the coverage provided through
19 medicaid, shall be supplemented by medicaid to provide full medicaid
20 benefits to the employee;

21 (c) The provision of child care services or the payment
22 of the costs associated with child care services for minor children
23 of employees receiving such public assistance; and

24 (d) The provision of programs for the transportation of
25 employees receiving such public assistance to and from work.

1 (2) The credit allowed under this section for any taxable
2 year shall not exceed the employer's actual tax liability for such
3 taxable year.

4 (3) For purposes of this section, medicaid means the
5 medical assistance program established pursuant to the Medical
6 Assistance Act.

7 Sec. 3. Section 77-2715.07, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

9 77-2715.07 (1) There shall be allowed to qualified
10 resident individuals as a nonrefundable credit against the income tax
11 imposed by the Nebraska Revenue Act of 1967:

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

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

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

19 (a) For returns filed reporting federal adjusted gross
20 incomes of greater than twenty-nine thousand dollars, a nonrefundable
21 credit equal to twenty-five percent of the federal credit allowed
22 under section 21 of the Internal Revenue Code of 1986, as amended;

23 (b) For returns filed reporting federal adjusted gross
24 income of twenty-nine thousand dollars or less, a refundable credit
25 equal to a percentage of the federal credit allowable under section

1 21 of the Internal Revenue Code of 1986, as amended, whether or not
2 the federal credit was limited by the federal tax liability. The
3 percentage of the federal credit shall be one hundred percent for
4 incomes not greater than twenty-two thousand dollars, and the
5 percentage shall be reduced by ten percent for each one thousand
6 dollars, or fraction thereof, by which the reported federal adjusted
7 gross income exceeds twenty-two thousand dollars;

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

14 (d) A refundable credit for individuals who qualify for
15 an income tax credit under the Angel Investment Tax Credit Act, the
16 Nebraska Advantage Microenterprise Tax Credit Act, or the Nebraska
17 Advantage Research and Development Act; and

18 (e) A refundable credit equal to ten percent of the
19 federal credit allowed under section 32 of the Internal Revenue Code
20 of 1986, as amended.

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

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

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

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

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

13 (e) A credit to employers as provided in section 2 of
14 this act.

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

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

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

22 (c) A refundable credit for individuals who qualify for
23 an income tax credit as an owner of agricultural assets under the
24 Beginning Farmer Tax Credit Act for all taxable years beginning or
25 deemed to begin on or after January 1, 2009, under the Internal

1 Revenue Code of 1986, as amended. The credit allowed for each
2 partner, shareholder, member, or beneficiary of a partnership,
3 corporation, limited liability company, or estate or trust qualifying
4 for an income tax credit as an owner of agricultural assets under the
5 Beginning Farmer Tax Credit Act shall be equal to the partner's,
6 shareholder's, member's, or beneficiary's portion of the amount of
7 tax credit distributed pursuant to subsection (4) of section 77-5211.

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

18 (b) For all taxable years beginning on or after January
19 1, 2009, under the Internal Revenue Code of 1986, as amended, there
20 shall be allowed to each partner, shareholder, member, or beneficiary
21 of a partnership, subchapter S corporation, limited liability
22 company, or estate or trust a nonrefundable credit against the income
23 tax imposed by the Nebraska Revenue Act of 1967 equal to the
24 partner's, shareholder's, member's, or beneficiary's portion of the
25 amount of franchise tax paid to the state under sections 77-3801 to

1 77-3807 by a financial institution.

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

9 Sec. 4. Section 77-2717, Revised Statutes Supplement,
10 2013, is amended to read:

11 77-2717 (1)(a)(i) For taxable years beginning or deemed
12 to begin before January 1, 2014, the tax imposed on all resident
13 estates and trusts shall be a percentage of the federal taxable
14 income of such estates and trusts as modified in section 77-2716,
15 plus a percentage of the federal alternative minimum tax and the
16 federal tax on premature or lump-sum distributions from qualified
17 retirement plans. The additional taxes shall be recomputed by (A)
18 substituting Nebraska taxable income for federal taxable income, (B)
19 calculating what the federal alternative minimum tax would be on
20 Nebraska taxable income and adjusting such calculations for any items
21 which are reflected differently in the determination of federal
22 taxable income, and (C) applying Nebraska rates to the result. The
23 federal credit for prior year minimum tax, after the recomputations
24 required by the Nebraska Revenue Act of 1967, and the credits
25 provided in the Nebraska Advantage Microenterprise Tax Credit Act and

1 the Nebraska Advantage Research and Development Act shall be allowed
2 as a reduction in the income tax due. A refundable income tax credit
3 shall be allowed for all resident estates and trusts under the Angel
4 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
5 Credit Act, and the Nebraska Advantage Research and Development Act.
6 A nonrefundable income tax credit shall be allowed for all resident
7 estates and trusts as provided in the New Markets Job Growth
8 Investment Act.

9 (ii) For taxable years beginning or deemed to begin on or
10 after January 1, 2014, the tax imposed on all resident estates and
11 trusts shall be a percentage of the federal taxable income of such
12 estates and trusts as modified in section 77-2716, plus a percentage
13 of the federal tax on premature or lump-sum distributions from
14 qualified retirement plans. The additional taxes shall be recomputed
15 by substituting Nebraska taxable income for federal taxable income
16 and applying Nebraska rates to the result. The credits provided in
17 the Nebraska Advantage Microenterprise Tax Credit Act and the
18 Nebraska Advantage Research and Development Act shall be allowed as a
19 reduction in the income tax due. A refundable income tax credit shall
20 be allowed for all resident estates and trusts under the Angel
21 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
22 Credit Act, and the Nebraska Advantage Research and Development Act.
23 A nonrefundable income tax credit shall be allowed for all resident
24 estates and trusts as provided in section 2 of this act and in the
25 New Markets Job Growth Investment Act.

1 (b) The tax imposed on all nonresident estates and trusts
2 shall be the portion of the tax imposed on resident estates and
3 trusts which is attributable to the income derived from sources
4 within this state. The tax which is attributable to income derived
5 from sources within this state shall be determined by multiplying the
6 liability to this state for a resident estate or trust with the same
7 total income by a fraction, the numerator of which is the nonresident
8 estate's or trust's Nebraska income as determined by sections 77-2724
9 and 77-2725 and the denominator of which is its total federal income
10 after first adjusting each by the amounts provided in section
11 77-2716. The federal credit for prior year minimum tax, after the
12 recomputations required by the Nebraska Revenue Act of 1967, reduced
13 by the percentage of the total income which is attributable to income
14 from sources outside this state, and the credits provided in the
15 Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska
16 Advantage Research and Development Act shall be allowed as a
17 reduction in the income tax due. A refundable income tax credit shall
18 be allowed for all nonresident estates and trusts under the Angel
19 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
20 Credit Act, and the Nebraska Advantage Research and Development Act.
21 A nonrefundable income tax credit shall be allowed for all
22 nonresident estates and trusts as provided in section 2 of this act
23 and in the New Markets Job Growth Investment Act.

24 (2) In all instances wherein a fiduciary income tax
25 return is required under the provisions of the Internal Revenue Code,

1 a Nebraska fiduciary return shall be filed, except that a fiduciary
2 return shall not be required to be filed regarding a simple trust if
3 all of the trust's beneficiaries are residents of the State of
4 Nebraska, all of the trust's income is derived from sources in this
5 state, and the trust has no federal tax liability. The fiduciary
6 shall be responsible for making the return for the estate or trust
7 for which he or she acts, whether the income be taxable to the estate
8 or trust or to the beneficiaries thereof. The fiduciary shall include
9 in the return a statement of each beneficiary's distributive share of
10 net income when such income is taxable to such beneficiaries.

11 (3) The beneficiaries of such estate or trust who are
12 residents of this state shall include in their income their
13 proportionate share of such estate's or trust's federal income and
14 shall reduce their Nebraska tax liability by their proportionate
15 share of the credits as provided in section 2 of this act and in the
16 Angel Investment Tax Credit Act, the Nebraska Advantage
17 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
18 Development Act, and the New Markets Job Growth Investment Act. There
19 shall be allowed to a beneficiary a refundable income tax credit
20 under the Beginning Farmer Tax Credit Act for all taxable years
21 beginning or deemed to begin on or after January 1, 2001, under the
22 Internal Revenue Code of 1986, as amended.

23 (4) If any beneficiary of such estate or trust is a
24 nonresident during any part of the estate's or trust's taxable year,
25 he or she shall file a Nebraska income tax return which shall include

1 (a) in Nebraska adjusted gross income that portion of the estate's or
2 trust's Nebraska income, as determined under sections 77-2724 and
3 77-2725, allocable to his or her interest in the estate or trust and
4 (b) a reduction of the Nebraska tax liability by his or her
5 proportionate share of the credits as provided in section 2 of this
6 act and in the Angel Investment Tax Credit Act, the Nebraska
7 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage
8 Research and Development Act, and the New Markets Job Growth
9 Investment Act and shall execute and forward to the fiduciary, on or
10 before the original due date of the Nebraska fiduciary return, an
11 agreement which states that he or she will file a Nebraska income tax
12 return and pay income tax on all income derived from or connected
13 with sources in this state, and such agreement shall be attached to
14 the Nebraska fiduciary return for such taxable year.

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

1 2013, the amount of remittance, in such instance, shall be the
2 highest individual income tax rate determined under section
3 77-2715.03 multiplied by the nonresident beneficiary's share of the
4 estate or trust income which was derived from or attributable to
5 sources within this state. The amount remitted shall be allowed as a
6 credit against the Nebraska income tax liability of the beneficiary.

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

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

25 (8) For purposes of this section, any beneficiary of an

1 estate or trust that is a grantor trust of a nonresident shall be
2 disregarded and this section shall apply as though the nonresident
3 grantor was the beneficiary.

4 Sec. 5. Section 77-2734.03, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

6 77-2734.03 (1)(a) For taxable years commencing prior to
7 January 1, 1997, any (i) insurer paying a tax on premiums and
8 assessments pursuant to section 77-908 or 81-523, (ii) electric
9 cooperative organized under the Joint Public Power Authority Act, or
10 (iii) credit union shall be credited, in the computation of the tax
11 due under the Nebraska Revenue Act of 1967, with the amount paid
12 during the taxable year as taxes on such premiums and assessments and
13 taxes in lieu of intangible tax.

14 (b) For taxable years commencing on or after January 1,
15 1997, any insurer paying a tax on premiums and assessments pursuant
16 to section 77-908 or 81-523, any electric cooperative organized under
17 the Joint Public Power Authority Act, or any credit union shall be
18 credited, in the computation of the tax due under the Nebraska
19 Revenue Act of 1967, with the amount paid during the taxable year as
20 (i) taxes on such premiums and assessments included as Nebraska
21 premiums and assessments under section 77-2734.05 and (ii) taxes in
22 lieu of intangible tax.

23 (c) For taxable years commencing or deemed to commence
24 prior to, on, or after January 1, 1998, any insurer paying a tax on
25 premiums and assessments pursuant to section 77-908 or 81-523 shall

1 be credited, in the computation of the tax due under the Nebraska
2 Revenue Act of 1967, with the amount paid during the taxable year as
3 assessments allowed as an offset against premium and related
4 retaliatory tax liability pursuant to section 44-4233.

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

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

12 (4) The changes made to this section by Laws 2004, LB
13 983, apply to motor fuels purchased during any tax year ending or
14 deemed to end on or after January 1, 2005, under the Internal Revenue
15 Code of 1986, as amended.

16 (5) There shall be allowed to corporate taxpayers
17 refundable income tax credits under the Nebraska Advantage
18 Microenterprise Tax Credit Act and the Nebraska Advantage Research
19 and Development Act.

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

23 (7) There shall be allowed to corporate taxpayers a
24 nonrefundable income tax credit as provided in the New Markets Job
25 Growth Investment Act.

1 (8) There shall be allowed to corporate taxpayers a
2 nonrefundable income tax credit as provided in section 2 of this act.

3 Sec. 6. Original sections 77-2701, 77-2715.07, and
4 77-2734.03, Revised Statutes Cumulative Supplement, 2012, and section
5 77-2717, Revised Statutes Supplement, 2013, are repealed.