

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 910

Introduced by Bolz, 29.

Read first time January 08, 2018

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
2 77-2715.07, Revised Statutes Cumulative Supplement, 2016, and
3 section 77-4212, Revised Statutes Supplement, 2017; to adopt the
4 Property Tax Circuit Breaker Act; to change provisions relating to
5 the intended funding of the Property Tax Credit Act; to harmonize
6 provisions; and to repeal the original sections.

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

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Property Tax Circuit Breaker Act.

3 Sec. 2. The purpose of the Property Tax Circuit Breaker Act is to
4 provide tax relief through a refundable income tax credit for taxpayers
5 with limited income available to pay property taxes.

6 Sec. 3. For purposes of the Property Tax Circuit Breaker Act:

7 (1) Agricultural land and horticultural land has the same meaning as
8 in section 77-1359;

9 (2) Department means the Department of Revenue;

10 (3) Qualifying agricultural taxpayer means an individual who owns
11 agricultural land and horticultural land that is located in this state
12 and that has been used as part of a farming operation which has federal
13 adjusted gross income of less than three hundred fifty thousand dollars
14 in the most recently completed taxable year; and

15 (4) Qualifying residential taxpayer means an individual who owns or
16 rents his or her principal residence in the State of Nebraska and who has
17 federal adjusted gross income of less than one hundred seventy-five
18 thousand dollars.

19 Sec. 4. (1) A qualifying agricultural taxpayer may apply to the
20 department for a refundable income tax credit under the Property Tax
21 Circuit Breaker Act from January 1 to April 15 of each year, except that
22 for 2018 the application period shall be determined by the department.
23 The application shall be made on a form developed by the department and
24 shall include:

25 (a) The address of the qualifying agricultural taxpayer's
26 agricultural land and horticultural land;

27 (b) The amount of property taxes paid by the qualifying agricultural
28 taxpayer on the agricultural land and horticultural land during the most
29 recently completed taxable year;

30 (c) The federal adjusted gross income generated by the qualifying
31 agricultural taxpayer's farming operation which includes the agricultural

1 land and horticultural land for the most recently completed taxable year;
2 and

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

4 (2) If the department determines that the qualifying agricultural
5 taxpayer qualifies for a tax credit under the act and that the
6 information in the application is correct, the department shall grant the
7 qualifying agricultural taxpayer a tax credit in an amount equal to the
8 amount of property taxes paid on the agricultural land and horticultural
9 land during the most recently completed taxable year minus seven percent
10 of the qualifying agricultural taxpayer's federal adjusted gross income
11 reported under subdivision (1)(c) of this section. The credit amount
12 shall not be less than zero. The department shall issue the qualifying
13 agricultural taxpayer a certification stating the amount of such credit
14 no later than December 31 of the year of application.

15 (3) The department may certify tax credits under this section of up
16 to one hundred five million dollars for each taxable year. If the total
17 amount of tax credits calculated under subsection (2) of this section for
18 all applications received in any year exceeds one hundred five million
19 dollars, the department shall certify tax credits in proportionate
20 percentages based upon the ratio of the amount of tax credits requested
21 in each application to the total amount of tax credits requested in all
22 applications so that the limitation in this subsection is not exceeded.

23 (4) The qualifying agricultural taxpayer shall claim the tax credit
24 provided in this section by filing a form developed by the Tax
25 Commissioner and attaching the tax credit certification issued by the
26 department under this section. Such form and certification shall be filed
27 with the next income tax return filed by the qualifying agricultural
28 taxpayer after receiving the tax credit certification. Tax credits
29 allowed under this section may be claimed for taxable years beginning or
30 deemed to begin on or after January 1, 2018, under the Internal Revenue
31 Code of 1986, as amended.

1 (5) Only one tax credit may be claimed under this section per parcel
2 of agricultural land and horticultural land.

3 Sec. 5. (1) A qualifying residential taxpayer may apply to the
4 department for a refundable income tax credit under the Property Tax
5 Circuit Breaker Act from January 1 to April 15 of each year, except that
6 for 2018 the application period shall be determined by the department.
7 The application shall be made on a form developed by the department and
8 shall include:

9 (a) The address of the qualifying residential taxpayer's principal
10 residence in this state;

11 (b)(i) If the qualifying residential taxpayer owns his or her
12 principal residence, the amount of property taxes paid by the qualifying
13 residential taxpayer on his or her principal residence during the most
14 recently completed taxable year; or

15 (ii) If the qualifying residential taxpayer rents his or her
16 principal residence, the amount of rent paid by the qualifying
17 residential taxpayer for the right to occupy his or her principal
18 residence during the most recently completed taxable year;

19 (c) The qualifying residential taxpayer's federal adjusted gross
20 income for the most recently completed taxable year;

21 (d) If the qualifying residential taxpayer owns his or her principal
22 residence, the assessed value of such residence used for determining the
23 property taxes paid during the most recently completed taxable year; and

24 (e) Any other documentation required by the department.

25 (2) If the department determines that the qualifying residential
26 taxpayer resided at the property described in the qualifying residential
27 taxpayer's application for at least six months of the most recently
28 completed taxable year, the department shall grant the qualifying
29 residential taxpayer a tax credit in an amount calculated pursuant to
30 this section and shall issue the qualifying residential taxpayer a
31 certification stating the amount of such credit no later than December 31

1 of the year of application.

2 (3)(a) For a qualifying residential taxpayer who paid property taxes
3 on his or her principal residence for the most recently completed taxable
4 year, the qualifying residential taxpayer shall be eligible for a credit,
5 subject to the limits described in subsections (5) and (7) of this
6 section, equal to the amount by which the total amount of such property
7 taxes paid on the principal residence exceeds the sum of the amounts
8 calculated in subdivision (3)(b) of this section. For purposes of this
9 subdivision, the amount of property taxes paid on a qualifying
10 residential taxpayer's principal residence shall not exceed the amount of
11 taxes paid on a residence with a taxable value equal to two hundred
12 percent of the average assessed value of single-family residential
13 property in the taxpayer's county of residence in the most recently
14 completed taxable year as determined under section 77-3506.02.

15 (b) The amounts to be added together for purposes of subdivision (3)
16 (a) of this section shall be determined from the following table:

		<u>For Married Filing</u>	<u>For All Other</u>
		<u>Jointly Taxpayers</u>	<u>Taxpayers</u>
19	<u>(i) 1% of the taxpayer's</u>	<u>\$0 - 6,290</u>	<u>\$0 - 3,150</u>
20	<u>federal adjusted gross</u>		
21	<u>income that falls</u>		
22	<u>within the following</u>		
23	<u>income bracket:</u>		
24	<u>(ii) 2% of the taxpayer's</u>	<u>\$6,291 -</u>	<u>\$3,151 -</u>
25	<u>federal adjusted gross</u>	<u>37,760</u>	<u>18,880</u>
26	<u>income that falls</u>		
27	<u>within the following</u>		
28	<u>income bracket:</u>		
29	<u>(iii) 4% of the taxpayer's</u>	<u>\$37,761 -</u>	<u>\$18,881 -</u>
30	<u>federal adjusted gross</u>	<u>60,840</u>	<u>30,420</u>
31	<u>income that falls</u>		

1 within the following
2 income bracket:

3 (iv) 6% of the taxpayer's \$60,841 - \$30,421 -
4 federal adjusted gross 121,680 60,840

5 income that falls
6 within the following
7 income bracket:

8 (v) 8% of the taxpayer's \$121,681 and over \$60,841 and over
9 federal adjusted gross

10 income that falls
11 within
12 the following income
13 bracket:

14 (4)(a) For a qualifying residential taxpayer who paid rent for the
15 right to occupy his or her principal residence for the most recently
16 completed taxable year, the qualifying residential taxpayer shall be
17 eligible for a credit, subject to the limits described in subsections (5)
18 and (7) of this section, equal to the amount by which twenty percent of
19 the total amount of rent paid exceeds the sum of the amounts calculated
20 in subdivision (4)(b) of this section.

21 (b) The amounts to be added together for purposes of subdivision (4)
22 (a) of this section shall be determined from the following table:

23 For Married Filing For All Other
24 Jointly Taxpayers Taxpayers

25 (i) 1% of the taxpayer's \$0 - 6,290 \$0 - 3,150
26 federal adjusted gross

27 income that falls within
28 the following
29 income bracket:

30 (ii) 2% of the taxpayer's \$6,291 - \$3,151 -

1	<u>federal adjusted gross</u>	<u>37,760</u>	<u>18,880</u>
2	<u>income that falls within</u>		
3	<u>the following</u>		
4	<u>income bracket:</u>		
5	(iii) <u>4% of the taxpayer's</u>	<u>\$37,761 -</u>	<u>\$18,881 -</u>
6	<u>federal adjusted gross</u>	<u>60,840</u>	<u>30,420</u>
7	<u>income that falls within</u>		
8	<u>the following</u>		
9	<u>income bracket:</u>		
10	(iv) <u>6% of the taxpayer's</u>	<u>\$60,841 -</u>	<u>\$30,421 -</u>
11	<u>federal adjusted gross</u>	<u>121,680</u>	<u>60,840</u>
12	<u>income that falls within</u>		
13	<u>the following</u>		
14	<u>income bracket:</u>		
15	(v) <u>8% of the taxpayer's</u>	<u>\$121,681 and over</u>	<u>\$60,841 and over</u>
16	<u>federal adjusted gross</u>		
17	<u>income that falls within</u>		
18	<u>the following income</u>		
19	<u>bracket:</u>		

20 (5) The credit allowed to a qualifying residential taxpayer under
 21 this section for any taxable year shall not exceed the applicable amount
 22 from the following table:

23		<u>For Married Filing</u>	<u>For All Other</u>
24		<u>Jointly Taxpayers</u>	<u>Taxpayers</u>
25	(a) <u>\$1,200 if the taxpayer's</u>	<u>\$0 - 6,290</u>	<u>\$0 - 3,150</u>
26	<u>total federal adjusted</u>		
27	<u>gross income for the</u>		
28	<u>taxable year falls</u>		
29	<u>into the following</u>		
30	<u>income bracket:</u>		

1 (b) \$900 if the taxpayer's \$6,291 - \$3,151 -
2 total federal adjusted 37,760 18,880
3 gross income for the
4 taxable year falls
5 into the following
6 income bracket:

7 (c) \$600 if the taxpayer's \$37,761 - \$18,881 -
8 total federal adjusted 60,840 30,420
9 gross income for the
10 taxable year falls
11 into the following
12 income bracket:

13 (d) \$300 if the taxpayer's \$60,841 \$30,421
14 total federal adjusted and over and over
15 gross income for the
16 taxable year falls
17 into the following
18 income bracket:

19 (6) For taxable years beginning or deemed to begin on or after
20 January 1, 2019, the minimum and maximum dollar amounts for each income
21 tax bracket provided in subsections (3), (4), and (5) of this section and
22 the amount of maximum credits provided in subsection (5) of this section
23 shall be adjusted for inflation by the percentage determined under
24 subsection (3) of section 77-2715.03.

25 (7) The department may certify tax credits under this section of up
26 to one hundred nineteen million dollars for each taxable year. If the
27 total amount of tax credits calculated under this section for all
28 applications received in any year exceeds one hundred nineteen million
29 dollars, the department shall certify tax credits in proportionate
30 percentages based upon the ratio of the amount of tax credits requested

1 in each application to the total amount of tax credits requested in all
2 applications so that the limitation in this subsection is not exceeded.

3 (8) The qualifying residential taxpayer shall claim the tax credit
4 provided in this section by filing a form developed by the Tax
5 Commissioner and attaching the tax credit certification issued by the
6 department under this section. Such form and certification shall be filed
7 with the next income tax return filed by the qualifying residential
8 taxpayer after receiving the tax credit certification.

9 (9) Tax credits allowed under this section may be claimed for
10 taxable years beginning or deemed to begin on or after January 1, 2018,
11 under the Internal Revenue Code of 1986, as amended.

12 (10) Any qualifying residential taxpayer who rents property that is
13 owned by a tax-exempt charitable organization or that is exempt in any
14 way from property taxation shall not be eligible to receive a tax credit
15 under this section.

16 (11) Only one tax credit may be claimed under this section per
17 residence.

18 Sec. 6. The department may adopt and promulgate rules and
19 regulations to carry out the Property Tax Circuit Breaker Act.

20 Sec. 7. Section 77-2715.07, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 77-2715.07 (1) There shall be allowed to qualified resident
23 individuals as a nonrefundable credit against the income tax imposed by
24 the Nebraska Revenue Act of 1967:

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

27 (b) A credit for taxes paid to another state as provided in section
28 77-2730.

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

31 (a) For returns filed reporting federal adjusted gross incomes of

1 greater than twenty-nine thousand dollars, a nonrefundable credit equal
2 to twenty-five percent of the federal credit allowed under section 21 of
3 the Internal Revenue Code of 1986, as amended, except that for taxable
4 years beginning or deemed to begin on or after January 1, 2015, such
5 nonrefundable credit shall be allowed only if the individual would have
6 received the federal credit allowed under section 21 of the code after
7 adding back in any carryforward of a net operating loss that was deducted
8 pursuant to such section in determining eligibility for the federal
9 credit;

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

25 (c) A refundable credit as provided in section 77-5209.01 for
26 individuals who qualify for an income tax credit as a qualified beginning
27 farmer or livestock producer under the Beginning Farmer Tax Credit Act
28 for all taxable years beginning or deemed to begin on or after January 1,
29 2006, under the Internal Revenue Code of 1986, as amended;

30 (d) A refundable credit for individuals who qualify for an income
31 tax credit under the Angel Investment Tax Credit Act, the Nebraska

1 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
2 and Development Act, or the Volunteer Emergency Responders Incentive Act;
3 and

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

12 (3) There shall be allowed to all individuals as a nonrefundable
13 credit against the income tax imposed by the Nebraska Revenue Act of
14 1967:

15 (a) A credit for personal exemptions allowed under section
16 77-2716.01;

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

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

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

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

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

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

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

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

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

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

19 (d) A refundable credit for individuals who qualify for an income
20 tax credit under the Property Tax Circuit Breaker Act.

21 (5)(a) For all taxable years beginning on or after January 1, 2007,
22 and before January 1, 2009, under the Internal Revenue Code of 1986, as
23 amended, there shall be allowed to each partner, shareholder, member, or
24 beneficiary of a partnership, subchapter S corporation, limited liability
25 company, or estate or trust a nonrefundable credit against the income tax
26 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
27 partner's, shareholder's, member's, or beneficiary's portion of the
28 amount of franchise tax paid to the state under sections 77-3801 to
29 77-3807 by a financial institution.

30 (b) For all taxable years beginning on or after January 1, 2009,
31 under the Internal Revenue Code of 1986, as amended, there shall be

1 allowed to each partner, shareholder, member, or beneficiary of a
2 partnership, subchapter S corporation, limited liability company, or
3 estate or trust a nonrefundable credit against the income tax imposed by
4 the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's,
5 member's, or beneficiary's portion of the amount of franchise tax paid to
6 the state under sections 77-3801 to 77-3807 by a financial institution.

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

13 (6) There shall be allowed to all individuals nonrefundable credits
14 against the income tax imposed by the Nebraska Revenue Act of 1967 as
15 provided in section 77-3604 and refundable credits against the income tax
16 imposed by the Nebraska Revenue Act of 1967 as provided in section
17 77-3605.

18 Sec. 8. Section 77-4212, Revised Statutes Supplement, 2017, is
19 amended to read:

20 77-4212 (1) For tax year 2007, the amount of relief granted under
21 the Property Tax Credit Act shall be one hundred five million dollars.
22 For tax year 2008, the amount of relief granted under the act shall be
23 one hundred fifteen million dollars. It is the intent of the Legislature
24 to fund the Property Tax Credit Act for tax years 2009 through 2016 after
25 ~~tax year 2008~~ using available revenue. For tax year 2017, the amount of
26 relief granted under the act shall be two hundred twenty-four million
27 dollars. The relief shall be in the form of a property tax credit which
28 appears on the property tax statement. For tax year 2018 and each tax
29 year thereafter, it is the intent of the Legislature that no amount of
30 funding be provided for the Property Tax Credit Act.

31 (2)(a) For tax years prior to tax year 2017, to determine the amount

1 of the property tax credit, the county treasurer shall multiply the
2 amount disbursed to the county under subdivision (4)(a) of this section
3 by the ratio of the real property valuation of the parcel to the total
4 real property valuation in the county. The amount determined shall be the
5 property tax credit for the property.

6 (b) Beginning with tax year 2017, to determine the amount of the
7 property tax credit, the county treasurer shall multiply the amount
8 disbursed to the county under subdivision (4)(b) of this section by the
9 ratio of the credit allocation valuation of the parcel to the total
10 credit allocation valuation in the county. The amount determined shall be
11 the property tax credit for the property.

12 (3) If the real property owner qualifies for a homestead exemption
13 under sections 77-3501 to 77-3529, the owner shall also be qualified for
14 the relief provided in the act to the extent of any remaining liability
15 after calculation of the relief provided by the homestead exemption. If
16 the credit results in a property tax liability on the homestead that is
17 less than zero, the amount of the credit which cannot be used by the
18 taxpayer shall be returned to the State Treasurer by July 1 of the year
19 the amount disbursed to the county was disbursed. The State Treasurer
20 shall immediately credit any funds returned under this subsection to the
21 Property Tax Credit Cash Fund. Upon the return of any funds under this
22 subsection, the county treasurer shall electronically file a report with
23 the Property Tax Administrator, on a form prescribed by the Tax
24 Commissioner, indicating the amount of funds distributed to each taxing
25 unit in the county in the year the funds were returned, any collection
26 fee retained by the county in such year, and the amount of unused credits
27 returned.

28 (4)(a) For tax years prior to tax year 2017, the amount disbursed to
29 each county shall be equal to the amount available for disbursement
30 determined under subsection (1) of this section multiplied by the ratio
31 of the real property valuation in the county to the real property

1 valuation in the state. By September 15, the Property Tax Administrator
2 shall determine the amount to be disbursed under this subdivision to each
3 county and certify such amounts to the State Treasurer and to each
4 county. The disbursements to the counties shall occur in two equal
5 payments, the first on or before January 31 and the second on or before
6 April 1. After retaining one percent of the receipts for costs, the
7 county treasurer shall allocate the remaining receipts to each taxing
8 unit levying taxes on taxable property in the tax district in which the
9 real property is located in the same proportion that the levy of such
10 taxing unit bears to the total levy on taxable property of all the taxing
11 units in the tax district in which the real property is located.

12 (b) Beginning with tax year 2017, the amount disbursed to each
13 county shall be equal to the amount available for disbursement determined
14 under subsection (1) of this section multiplied by the ratio of the
15 credit allocation valuation in the county to the credit allocation
16 valuation in the state. By September 15, the Property Tax Administrator
17 shall determine the amount to be disbursed under this subdivision to each
18 county and certify such amounts to the State Treasurer and to each
19 county. The disbursements to the counties shall occur in two equal
20 payments, the first on or before January 31 and the second on or before
21 April 1. After retaining one percent of the receipts for costs, the
22 county treasurer shall allocate the remaining receipts to each taxing
23 unit based on its share of the credits granted to all taxpayers in the
24 taxing unit.

25 (5) For purposes of this section, credit allocation valuation means
26 the taxable value for all real property except agricultural land and
27 horticultural land, one hundred twenty percent of taxable value for
28 agricultural land and horticultural land that is not subject to special
29 valuation, and one hundred twenty percent of taxable value for
30 agricultural land and horticultural land that is subject to special
31 valuation.

1 (6) The State Treasurer shall transfer from the General Fund to the
2 Property Tax Credit Cash Fund one hundred five million dollars by August
3 1, 2007, and one hundred fifteen million dollars by August 1, 2008.

4 (7) The Legislature shall have the power to transfer funds from the
5 Property Tax Credit Cash Fund to the General Fund.

6 Sec. 9. Original section 77-2715.07, Revised Statutes Cumulative
7 Supplement, 2016, and section 77-4212, Revised Statutes Supplement, 2017,
8 are repealed.