

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 610

Introduced by Lindstrom, 18.

Read first time January 23, 2019

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, Reissue Revised Statutes of
- 3 Nebraska; to adopt the College Savings Tax Credit Act; to harmonize
- 4 provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known and may be
2 cited as the College Savings Tax Credit Act.

3 Sec. 2. For purposes of the College Savings Tax Credit Act:

4 (1) College savings account means an account established under the
5 Nebraska educational savings plan trust for the purpose of meeting the
6 qualified higher education expenses of a beneficiary as allowed by
7 section 529 of the Internal Revenue Code;

8 (2) Department means the Department of Revenue;

9 (3) Nebraska educational savings plan trust means the trust created
10 in section 85-1804; and

11 (4) Taxpayer means any person subject to the income tax imposed by
12 the Nebraska Revenue Act of 1967.

13 Sec. 3. (1) For taxable years beginning or deemed to begin on or
14 after January 1, 2020, under the Internal Revenue Code of 1986, as
15 amended, each taxpayer who, during the taxable year, makes a contribution
16 to a college savings account in an amount matching a contribution made to
17 that same account in the same taxable year by an employee of the taxpayer
18 is entitled to a nonrefundable credit against the income tax imposed by
19 the Nebraska Revenue Act of 1967 in an amount equal to twenty-five
20 percent of the taxpayer's matching contribution, not to exceed two
21 thousand dollars per contributing employee per taxable year.

22 (2) The credit allowed under this section may not be carried back.
23 If the amount of the credit exceeds the tax liability for the year, the
24 excess may be carried forward for up to five taxable years following the
25 taxable year in which the matching contribution was made. The tax credit
26 shall be applied to the earliest year for which there is a tax liability.
27 If there are credits for more than one year that are available to offset
28 a tax liability, the earlier credit shall be applied first.

29 (3) A taxpayer claiming a credit under this section shall maintain
30 any information that the department may require regarding the matching
31 contribution for which the credit is claimed.

1 Sec. 4. The department may adopt and promulgate rules and
2 regulations to carry out the College Savings Tax Credit Act.

3 Sec. 5. Section 77-2715.07, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 77-2715.07 (1) There shall be allowed to qualified resident
6 individuals as a nonrefundable credit against the income tax imposed by
7 the Nebraska Revenue Act of 1967:

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

10 (b) A credit for taxes paid to another state as provided in section
11 77-2730.

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

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

24 (b) For returns filed reporting federal adjusted gross income of
25 twenty-nine thousand dollars or less, a refundable credit equal to a
26 percentage of the federal credit allowable under section 21 of the
27 Internal Revenue Code of 1986, as amended, whether or not the federal
28 credit was limited by the federal tax liability. The percentage of the
29 federal credit shall be one hundred percent for incomes not greater than
30 twenty-two thousand dollars, and the percentage shall be reduced by ten
31 percent for each one thousand dollars, or fraction thereof, by which the

1 reported federal adjusted gross income exceeds twenty-two thousand
2 dollars, except that for taxable years beginning or deemed to begin on or
3 after January 1, 2015, such refundable credit shall be allowed only if
4 the individual would have received the federal credit allowed under
5 section 21 of the code after adding back in any carryforward of a net
6 operating loss that was deducted pursuant to such section in determining
7 eligibility for the federal credit;

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

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

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

26 (3) There shall be allowed to all individuals as a nonrefundable
27 credit against the income tax imposed by the Nebraska Revenue Act of
28 1967:

29 (a) A credit for personal exemptions allowed under section
30 77-2716.01;

31 (b) A credit for contributions to certified community betterment

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

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

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

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

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

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

16 (h) A credit as provided in the College Savings Tax Credit Act.

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

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

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

24 (c) A refundable credit for individuals who qualify for an income
25 tax credit as an owner of agricultural assets under the Beginning Farmer
26 Tax Credit Act for all taxable years beginning or deemed to begin on or
27 after January 1, 2009, under the Internal Revenue Code of 1986, as
28 amended. The credit allowed for each partner, shareholder, member, or
29 beneficiary of a partnership, corporation, limited liability company, or
30 estate or trust qualifying for an income tax credit as an owner of
31 agricultural assets under the Beginning Farmer Tax Credit Act shall be

1 equal to the partner's, shareholder's, member's, or beneficiary's portion
2 of the amount of tax credit distributed pursuant to subsection (4) of
3 section 77-5211.

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

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

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

27 (6) There shall be allowed to all individuals nonrefundable credits
28 against the income tax imposed by the Nebraska Revenue Act of 1967 as
29 provided in section 77-3604 and refundable credits against the income tax
30 imposed by the Nebraska Revenue Act of 1967 as provided in section
31 77-3605.

1 Sec. 6. Section 77-2717, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
4 before January 1, 2014, the tax imposed on all resident estates and
5 trusts shall be a percentage of the federal taxable income of such
6 estates and trusts as modified in section 77-2716, plus a percentage of
7 the federal alternative minimum tax and the federal tax on premature or
8 lump-sum distributions from qualified retirement plans. The additional
9 taxes shall be recomputed by (A) substituting Nebraska taxable income for
10 federal taxable income, (B) calculating what the federal alternative
11 minimum tax would be on Nebraska taxable income and adjusting such
12 calculations for any items which are reflected differently in the
13 determination of federal taxable income, and (C) applying Nebraska rates
14 to the result. The federal credit for prior year minimum tax, after the
15 recomputations required by the Nebraska Revenue Act of 1967, and the
16 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
17 and the Nebraska Advantage Research and Development Act shall be allowed
18 as a reduction in the income tax due. A refundable income tax credit
19 shall be allowed for all resident estates and trusts under the Angel
20 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
21 Credit Act, and the Nebraska Advantage Research and Development Act. A
22 nonrefundable income tax credit shall be allowed for all resident estates
23 and trusts as provided in the New Markets Job Growth Investment Act.

24 (ii) For taxable years beginning or deemed to begin on or after
25 January 1, 2014, the tax imposed on all resident estates and trusts shall
26 be a percentage of the federal taxable income of such estates and trusts
27 as modified in section 77-2716, plus a percentage of the federal tax on
28 premature or lump-sum distributions from qualified retirement plans. The
29 additional taxes shall be recomputed by substituting Nebraska taxable
30 income for federal taxable income and applying Nebraska rates to the
31 result. The credits provided in the Nebraska Advantage Microenterprise

1 Tax Credit Act and the Nebraska Advantage Research and Development Act
2 shall be allowed as a reduction in the income tax due. A refundable
3 income tax credit shall be allowed for all resident estates and trusts
4 under the Angel Investment Tax Credit Act, the Nebraska Advantage
5 Microenterprise Tax Credit Act, and the Nebraska Advantage Research and
6 Development Act. A nonrefundable income tax credit shall be allowed for
7 all resident estates and trusts as provided in the Nebraska Job Creation
8 and Mainstreet Revitalization Act, the New Markets Job Growth Investment
9 Act, the School Readiness Tax Credit Act, the Affordable Housing Tax
10 Credit Act, the College Savings Tax Credit Act, and section 77-27,238.

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

1 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
2 Credit Act, the Affordable Housing Tax Credit Act, the College Savings
3 Tax Credit Act, and section 77-27,238.

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

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

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

1 adjusted gross income that portion of the estate's or trust's Nebraska
2 income, as determined under sections 77-2724 and 77-2725, allocable to
3 his or her interest in the estate or trust and (b) a reduction of the
4 Nebraska tax liability by his or her proportionate share of the credits
5 as provided in the Angel Investment Tax Credit Act, the Nebraska
6 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
7 and Development Act, the Nebraska Job Creation and Mainstreet
8 Revitalization Act, the New Markets Job Growth Investment Act, the School
9 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
10 College Savings Tax Credit Act, and section 77-27,238 and shall execute
11 and forward to the fiduciary, on or before the original due date of the
12 Nebraska fiduciary return, an agreement which states that he or she will
13 file a Nebraska income tax return and pay income tax on all income
14 derived from or connected with sources in this state, and such agreement
15 shall be attached to the Nebraska fiduciary return for such taxable year.

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

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

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

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

21 Sec. 7. Section 77-2734.03, Reissue Revised Statutes of Nebraska, is
22 amended to read:

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

30 (b) For taxable years commencing on or after January 1, 1997, any
31 insurer paying a tax on premiums and assessments pursuant to section

1 77-908 or 81-523, any electric cooperative organized under the Joint
2 Public Power Authority Act, or any credit union shall be credited, in the
3 computation of the tax due under the Nebraska Revenue Act of 1967, with
4 the amount paid during the taxable year as (i) taxes on such premiums and
5 assessments included as Nebraska premiums and assessments under section
6 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

25 (5) There shall be allowed to corporate taxpayers refundable income
26 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act
27 and the Nebraska Advantage Research and Development Act.

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

31 (7) There shall be allowed to corporate taxpayers a nonrefundable

1 income tax credit as provided in the Nebraska Job Creation and Mainstreet
2 Revitalization Act, the New Markets Job Growth Investment Act, the School
3 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
4 College Savings Tax Credit Act, and section 77-27,238.

5 Sec. 8. Original sections 77-2715.07, 77-2717, and 77-2734.03,
6 Reissue Revised Statutes of Nebraska, are repealed.