

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 670

Introduced by Linehan, 39; Albrecht, 17; Halloran, 33; Kolterman, 24.

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 Opportunity Scholarships Act; to provide for
- 4 tax credits; to harmonize provisions; to provide an operative date;
- 5 to provide for severability; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

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

3 Sec. 2. The Legislature finds that:

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

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

10 (3) For parents and legal guardians who are paying taxes in support
11 of public elementary and secondary schools, choosing privately operated
12 schools for their children can be a financial burden because typically
13 these parents and legal guardians will be paying twice for education
14 through tuition and taxes;

15 (4) Parents and legal guardians of limited means are less able to
16 choose among quality educational opportunities for their children;

17 (5) Making it possible for more parents and legal guardians to be
18 able to choose privately operated schools reduces publicly funded
19 educational costs and benefits Nebraska taxpayers; and

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

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

27 (1) Department means the Department of Revenue;

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

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

1 (a) Is a dependent member of a household that, for the most recently
2 concluded calendar year before the student receives an education
3 scholarship pursuant to the act, has a gross income which does not exceed
4 two times the income indicated in the income eligibility guidelines for
5 reduced price meals under the National School Lunch Program in 7 C.F.R.
6 part 210, as such part existed on January 1, 2019; and

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

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

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

19 (4) Qualified school means any nongovernmental, privately operated
20 elementary or secondary school located in this state that (a) is operated
21 not for profit, (b) complies with the antidiscrimination provisions of 42
22 U.S.C. 1981 as such section existed on January 1, 2019, (c) complies with
23 all health and life safety laws or codes that apply to privately operated
24 schools, and (d) fulfills the applicable accreditation or approval
25 requirements established by the State Board of Education pursuant to
26 section 79-318;

27 (5) Scholarship-granting organization means a charitable
28 organization in this state that is (a) exempt from federal income
29 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of
30 1986, as amended, and (b) certified pursuant to section 4 of this act to
31 provide tax-credit-supported education scholarships to eligible students

1 to assist them in attending qualified schools; and

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

5 Sec. 4. (1) An organization may apply to the department to become
6 certified as a scholarship-granting organization under the Opportunity
7 Scholarships Act. An organization shall obtain such certification prior
8 to providing any education scholarships to eligible students under the
9 act. The applicant shall provide the department with sufficient
10 information to show:

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

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

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

17 (d) That the applicant will provide education scholarships for
18 eligible students without limiting education scholarship availability to
19 only one qualified school; and

20 (e) That the applicant will give first priority to eligible students
21 who received an education scholarship from an eligible scholarship-
22 granting organization during the previous school year and then to new
23 applicants whose household income levels do not exceed one hundred
24 eighty-five percent of the federal poverty level or who are in foster
25 care or out-of-home care.

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

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

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

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

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

24 (5) The tax credit allowed under this section is subject to section
25 9 of this act.

26 Sec. 6. (1) Any partnership, limited liability company, or
27 corporation having an election in effect under subchapter S of the
28 Internal Revenue Code of 1986, as amended, that (a) is carrying on any
29 trade or business for which deductions would be allowed under section 162
30 of the Internal Revenue Code of 1986, as amended, or is carrying on any
31 rental activity and (b) makes one or more cash contributions to one or

1 more scholarship-granting organizations during a tax year shall be
2 eligible for a credit against the income tax due under the Nebraska
3 Revenue Act of 1967. Except as otherwise provided in the Opportunity
4 Scholarships Act, the amount of the credit shall be equal to the lesser
5 of (a) the total amount of such contributions made during the tax year or
6 (b) fifty percent of the income tax liability of such taxpayer for the
7 tax year. A taxpayer may only claim a credit against the income tax due
8 pursuant to this section for the portion of the contribution that was not
9 claimed as a charitable contribution under the Internal Revenue Code. The
10 credit shall be attributed to each partner, member, or shareholder in the
11 same proportion used to report the partnership's, limited liability
12 company's, or subchapter S corporation's income or loss for income tax
13 purposes.

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

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

22 (4) The tax credit allowed under this section is subject to section
23 9 of this act.

24 Sec. 7. (1) An estate or trust which makes one or more cash
25 contributions to one or more scholarship-granting organizations during a
26 tax year shall be eligible for a credit against the income tax due under
27 the Nebraska Revenue Act of 1967. Except as otherwise provided in the
28 Opportunity Scholarships Act, the amount of the credit shall be equal to
29 the lesser of (a) the total amount of such contributions made during the
30 tax year or (b) fifty percent of the income tax liability of such
31 taxpayer for the tax year. A taxpayer may only claim a credit against the

1 income tax due pursuant to this section for the portion of the
2 contribution that was not claimed as a charitable contribution under the
3 Internal Revenue Code. Any credit not used by the estate or trust may be
4 attributed to each beneficiary of the estate or trust in the same
5 proportion used to report the beneficiary's income from the estate or
6 trust for income tax purposes.

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

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

15 (4) The tax credit allowed under this section is subject to section
16 9 of this act.

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

28 (2) The tax credit allowed under this section shall be a
29 nonrefundable credit. Any amount of the tax credit that is unused may be
30 carried forward and applied against the taxpayer's income tax liability
31 for the next five years immediately following the tax year in which the

1 credit is first allowed. The tax credit cannot be carried back.

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

5 (4) The tax credit allowed under this section is subject to section
6 9 of this act.

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

25 (2) In order to be allowed a tax credit as provided by the act, the
26 taxpayer shall make its contribution between thirty-one and sixty days
27 after notifying the scholarship-granting organization of the taxpayer's
28 intent to make a contribution. If the scholarship-granting organization
29 does not receive the contribution within the required time period, it
30 shall notify the department of such fact and the department shall no
31 longer include such amount when calculating whether the limit prescribed

1 in subsection (3) of this section has been exceeded. If the scholarship-
2 granting organization receives the contribution within the required time
3 period, it shall provide the taxpayer with a receipt for the
4 contribution. The receipt shall show the name and address of the
5 scholarship-granting organization, the date the scholarship-granting
6 organization was certified by the department in accordance with section 4
7 of this act, the name, address, and, if available, tax identification
8 number of the taxpayer making the contribution, the amount of the
9 contribution, and the date the contribution was received.

10 (3) The department shall consider notifications regarding intended
11 tax credit amounts in the order in which they are received to ascertain
12 whether the intended tax credit amounts are within the annual limit
13 provided in this subsection. The annual limit on the total amount of tax
14 credits for calendar year 2020 shall be ten million dollars. The annual
15 limit on the total amount of tax credits for calendar year 2021 and each
16 calendar year thereafter shall be calculated by taking the annual limit
17 from the prior calendar year and then multiplying such amount by:

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

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

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

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

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

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

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

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

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

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

1 in the most recent fiscal year.

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

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

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

14 Sec. 14. Section 77-2715.07, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 77-2715.07 (1) There shall be allowed to qualified resident
17 individuals as a nonrefundable credit against the income tax imposed by
18 the Nebraska Revenue Act of 1967:

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

21 (b) A credit for taxes paid to another state as provided in section
22 77-2730.

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

25 (a) For returns filed reporting federal adjusted gross incomes of
26 greater than twenty-nine thousand dollars, a nonrefundable credit equal
27 to twenty-five percent of the federal credit allowed under section 21 of
28 the Internal Revenue Code of 1986, as amended, except that for taxable
29 years beginning or deemed to begin on or after January 1, 2015, such
30 nonrefundable credit shall be allowed only if the individual would have
31 received the federal credit allowed under section 21 of the code after

1 adding back in any carryforward of a net operating loss that was deducted
2 pursuant to such section in determining eligibility for the federal
3 credit;

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

19 (c) A refundable credit as provided in section 77-5209.01 for
20 individuals who qualify for an income tax credit as a qualified beginning
21 farmer or livestock producer under the Beginning Farmer Tax Credit Act
22 for all taxable years beginning or deemed to begin on or after January 1,
23 2006, under the Internal Revenue Code of 1986, as amended;

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

29 (e) A refundable credit equal to ten percent of the federal credit
30 allowed under section 32 of the Internal Revenue Code of 1986, as
31 amended, except that for taxable years beginning or deemed to begin on or

1 after January 1, 2015, such refundable credit shall be allowed only if
2 the individual would have received the federal credit allowed under
3 section 32 of the code after adding back in any carryforward of a net
4 operating loss that was deducted pursuant to such section in determining
5 eligibility for the federal credit.

6 (3) There shall be allowed to all individuals as a nonrefundable
7 credit against the income tax imposed by the Nebraska Revenue Act of
8 1967:

9 (a) A credit for personal exemptions allowed under section
10 77-2716.01;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (6) There shall be allowed to all individuals nonrefundable credits
8 against the income tax imposed by the Nebraska Revenue Act of 1967 as
9 provided in section 77-3604 and refundable credits against the income tax
10 imposed by the Nebraska Revenue Act of 1967 as provided in section
11 77-3605.

12 Sec. 15. Section 77-2717, Reissue Revised Statutes of Nebraska, is
13 amended to read:

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

1 Credit Act, and the Nebraska Advantage Research and Development Act. A
2 nonrefundable income tax credit shall be allowed for all resident estates
3 and trusts as provided in the New Markets Job Growth Investment Act.

4 (ii) For taxable years beginning or deemed to begin on or after
5 January 1, 2014, the tax imposed on all resident estates and trusts shall
6 be a percentage of the federal taxable income of such estates and trusts
7 as modified in section 77-2716, plus a percentage of the federal tax on
8 premature or lump-sum distributions from qualified retirement plans. The
9 additional taxes shall be recomputed by substituting Nebraska taxable
10 income for federal taxable income and applying Nebraska rates to the
11 result. The credits provided in the Nebraska Advantage Microenterprise
12 Tax Credit Act and the Nebraska Advantage Research and Development Act
13 shall be allowed as a reduction in the income tax due. A refundable
14 income tax credit shall be allowed for all resident estates and trusts
15 under the Angel Investment Tax Credit Act, the Nebraska Advantage
16 Microenterprise Tax Credit Act, and the Nebraska Advantage Research and
17 Development Act. A nonrefundable income tax credit shall be allowed for
18 all resident estates and trusts as provided in the Nebraska Job Creation
19 and Mainstreet Revitalization Act, the New Markets Job Growth Investment
20 Act, the School Readiness Tax Credit Act, the Affordable Housing Tax
21 Credit Act, the Opportunity Scholarships Act, and section 77-27,238.

22 (b) The tax imposed on all nonresident estates and trusts shall be
23 the portion of the tax imposed on resident estates and trusts which is
24 attributable to the income derived from sources within this state. The
25 tax which is attributable to income derived from sources within this
26 state shall be determined by multiplying the liability to this state for
27 a resident estate or trust with the same total income by a fraction, the
28 numerator of which is the nonresident estate's or trust's Nebraska income
29 as determined by sections 77-2724 and 77-2725 and the denominator of
30 which is its total federal income after first adjusting each by the
31 amounts provided in section 77-2716. The federal credit for prior year

1 minimum tax, after the recomputations required by the Nebraska Revenue
2 Act of 1967, reduced by the percentage of the total income which is
3 attributable to income from sources outside this state, and the credits
4 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
5 Nebraska Advantage Research and Development Act shall be allowed as a
6 reduction in the income tax due. A refundable income tax credit shall be
7 allowed for all nonresident estates and trusts under the Angel Investment
8 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
9 and the Nebraska Advantage Research and Development Act. A nonrefundable
10 income tax credit shall be allowed for all nonresident estates and trusts
11 as provided in the Nebraska Job Creation and Mainstreet Revitalization
12 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
13 Credit Act, the Affordable Housing Tax Credit Act, the Opportunity
14 Scholarships Act, and section 77-27,238.

15 (2) In all instances wherein a fiduciary income tax return is
16 required under the provisions of the Internal Revenue Code, a Nebraska
17 fiduciary return shall be filed, except that a fiduciary return shall not
18 be required to be filed regarding a simple trust if all of the trust's
19 beneficiaries are residents of the State of Nebraska, all of the trust's
20 income is derived from sources in this state, and the trust has no
21 federal tax liability. The fiduciary shall be responsible for making the
22 return for the estate or trust for which he or she acts, whether the
23 income be taxable to the estate or trust or to the beneficiaries thereof.
24 The fiduciary shall include in the return a statement of each
25 beneficiary's distributive share of net income when such income is
26 taxable to such beneficiaries.

27 (3) The beneficiaries of such estate or trust who are residents of
28 this state shall include in their income their proportionate share of
29 such estate's or trust's federal income and shall reduce their Nebraska
30 tax liability by their proportionate share of the credits as provided in
31 the Angel Investment Tax Credit Act, the Nebraska Advantage

1 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
2 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
3 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
4 Credit Act, the Affordable Housing Tax Credit Act, the Opportunity
5 Scholarships Act, and section 77-27,238. There shall be allowed to a
6 beneficiary a refundable income tax credit under the Beginning Farmer Tax
7 Credit Act for all taxable years beginning or deemed to begin on or after
8 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

9 (4) If any beneficiary of such estate or trust is a nonresident
10 during any part of the estate's or trust's taxable year, he or she shall
11 file a Nebraska income tax return which shall include (a) in Nebraska
12 adjusted gross income that portion of the estate's or trust's Nebraska
13 income, as determined under sections 77-2724 and 77-2725, allocable to
14 his or her interest in the estate or trust and (b) a reduction of the
15 Nebraska tax liability by his or her proportionate share of the credits
16 as provided in the Angel Investment Tax Credit Act, the Nebraska
17 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
18 and Development Act, the Nebraska Job Creation and Mainstreet
19 Revitalization Act, the New Markets Job Growth Investment Act, the School
20 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
21 Opportunity Scholarships Act, and section 77-27,238 and shall execute and
22 forward to the fiduciary, on or before the original due date of the
23 Nebraska fiduciary return, an agreement which states that he or she will
24 file a Nebraska income tax return and pay income tax on all income
25 derived from or connected with sources in this state, and such agreement
26 shall be attached to the Nebraska fiduciary return for such taxable year.

27 (5) In the absence of the nonresident beneficiary's executed
28 agreement being attached to the Nebraska fiduciary return, the estate or
29 trust shall remit a portion of such beneficiary's income which was
30 derived from or attributable to Nebraska sources with its Nebraska return
31 for the taxable year. For taxable years beginning or deemed to begin

1 before January 1, 2013, the amount of remittance, in such instance, shall
2 be the highest individual income tax rate determined under section
3 77-2715.02 multiplied by the nonresident beneficiary's share of the
4 estate or trust income which was derived from or attributable to sources
5 within this state. For taxable years beginning or deemed to begin on or
6 after January 1, 2013, the amount of remittance, in such instance, shall
7 be the highest individual income tax rate determined under section
8 77-2715.03 multiplied by the nonresident beneficiary's share of the
9 estate or trust income which was derived from or attributable to sources
10 within this state. The amount remitted shall be allowed as a credit
11 against the Nebraska income tax liability of the beneficiary.

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

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

28 (8) For purposes of this section, any beneficiary of an estate or
29 trust that is a grantor trust of a nonresident shall be disregarded and
30 this section shall apply as though the nonresident grantor was the
31 beneficiary.

1 Sec. 16. Section 77-2734.03, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
4 1997, any (i) insurer paying a tax on premiums and assessments pursuant
5 to section 77-908 or 81-523, (ii) electric cooperative organized under
6 the Joint Public Power Authority Act, or (iii) credit union shall be
7 credited, in the computation of the tax due under the Nebraska Revenue
8 Act of 1967, with the amount paid during the taxable year as taxes on
9 such premiums and assessments and taxes in lieu of intangible tax.

10 (b) For taxable years commencing on or after January 1, 1997, any
11 insurer paying a tax on premiums and assessments pursuant to section
12 77-908 or 81-523, any electric cooperative organized under the Joint
13 Public Power Authority Act, or any credit union shall be credited, in the
14 computation of the tax due under the Nebraska Revenue Act of 1967, with
15 the amount paid during the taxable year as (i) taxes on such premiums and
16 assessments included as Nebraska premiums and assessments under section
17 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

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

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

11 (7) There shall be allowed to corporate taxpayers a nonrefundable
12 income tax credit as provided in the Nebraska Job Creation and Mainstreet
13 Revitalization Act, the New Markets Job Growth Investment Act, the School
14 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
15 Opportunity Scholarships Act, and section 77-27,238.

16 Sec. 17. This act becomes operative for all taxable years beginning
17 or deemed to begin on or after January 1, 2020, under the Internal
18 Revenue Code of 1986, as amended.

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

22 Sec. 19. Original sections 77-2715.07, 77-2717, and 77-2734.03,
23 Reissue Revised Statutes of Nebraska, are repealed.