

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 937

Introduced by Bostar, 29.

Read first time January 04, 2024

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2715.07, Revised Statutes Supplement, 2023; to adopt the
- 3 Caregiver Tax Credit Act; to provide for tax credits; to harmonize
- 4 provisions; and to repeal the original section.
- 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 Caregiver Tax Credit Act.

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

4 (1) Activities of daily living includes:

5 (a) Ambulating, which is the extent of the ability of an individual
6 to move from one position to another and walk independently;

7 (b) Feeding, which is the ability of an individual to feed oneself;

8 (c) Dressing, which is the ability of an individual to select
9 appropriate clothes and to put the clothes on without aid;

10 (d) Personal hygiene, which is the ability of an individual to bathe
11 and groom oneself and maintain dental hygiene and nail and hair care;

12 (e) Continence, which is the ability to control bladder and bowel
13 function; and

14 (f) Toileting, which is the ability of an individual to get to and
15 from the toilet without aid, using it appropriately, and cleaning
16 oneself;

17 (2)(a) Eligible expenditure includes:

18 (i) The improvement or alteration to the primary residence of the
19 family caregiver or eligible family member to permit the eligible family
20 member to live in the residence and to remain mobile, safe, and
21 independent;

22 (ii) The purchase or lease of equipment by the family caregiver,
23 including, but not limited to, durable medical equipment, that is
24 necessary to assist an eligible family member in carrying out one or more
25 activities of daily living; and

26 (iii) Other paid or incurred expenses by the family caregiver that
27 assist the family caregiver in providing care to an eligible family
28 member such as expenditures related to:

29 (A) Hiring a home care aide;

30 (B) Respite care;

31 (C) Adult day care;

- 1 (D) Personal care attendants;
- 2 (E) Health care equipment; and
- 3 (F) Technology.

4 (b) The eligible expenditure shall be directly related to assisting
5 the family caregiver in providing care to an eligible family member.
6 Eligible expenditure shall not include the carrying out of general
7 household maintenance activities such as painting, plumbing, electrical
8 repairs, or exterior maintenance;

9 (3) Eligible family member means an individual who:

10 (a) Requires assistance with at least two activities of daily living
11 as certified by a licensed health care provider;

12 (b) Qualifies as a dependent, spouse, parent, or other relation by
13 blood or marriage to the family caregiver; and

14 (c) Lives in a private residence and not in an assisted living
15 center, nursing facility, or residential care home; and

16 (4) Family caregiver means an individual:

17 (a) Providing care and support for an eligible family member;

18 (b) Who has a federal adjusted gross income of less than fifty
19 thousand dollars or, if filing as a married couple jointly, less than one
20 hundred thousand dollars; and

21 (c) Who has personally incurred uncompensated expenses directly
22 related to the care of an eligible family member.

23 Sec. 3. (1) For all taxable years beginning on or after January 1,
24 2025, there shall be allowed a credit against the income tax imposed by
25 the Nebraska Revenue Act of 1967 to any family caregiver who incurs
26 eligible expenditures for the care and support of an eligible family
27 member.

28 (2) The amount of the credit shall be equal to fifty percent of the
29 eligible expenditures incurred during the taxable year by a family
30 caregiver for the care and support of an eligible family member.

31 (3) The tax credit allowed under this section shall be a

1 nonrefundable credit. Any amount of the credit that is unused may not be
2 carried forward.

3 (4) The maximum allowable credit in any single tax year for a family
4 caregiver shall be two thousand dollars unless the eligible family member
5 is a veteran or has a diagnosis of dementia in which case the maximum
6 allowable credit shall be three thousand dollars. If two or more family
7 caregivers claim the tax credit allowed by this section for the same
8 eligible family member, the maximum allowable credit shall be allocated
9 in equal amounts between each of the family caregivers.

10 Sec. 4. The Department of Revenue may adopt and promulgate rules
11 and regulations necessary to carry out the Caregiver Tax Credit Act.

12 Sec. 5. Section 77-2715.07, Revised Statutes Supplement, 2023, is
13 amended to read:

14 77-2715.07 (1) There shall be allowed to qualified resident
15 individuals as a nonrefundable credit against the income tax imposed by
16 the Nebraska Revenue Act of 1967:

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

19 (b) A credit for taxes paid to another state as provided in section
20 77-2730.

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

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

1 credit;

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

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

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

27 (e) A refundable credit equal to ten percent of the federal credit
28 allowed under section 32 of the Internal Revenue Code of 1986, as
29 amended, except that for taxable years beginning or deemed to begin on or
30 after January 1, 2015, such refundable credit shall be allowed only if
31 the individual would have received the federal credit allowed under

1 section 32 of the code after adding back in any carryforward of a net
2 operating loss that was deducted pursuant to such section in determining
3 eligibility for the federal credit.

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

7 (a) A credit for personal exemptions allowed under section
8 77-2716.01;

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

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

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

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

22 (f) A credit to employers as provided in sections 77-27,238 and
23 77-27,240;

24 (g) A credit as provided in the Affordable Housing Tax Credit Act;

25 (h) A credit to grocery store retailers, restaurants, and
26 agricultural producers as provided in section 77-27,241;~~and~~

27 (i) A credit as provided in the Opportunity Scholarships Act; and ~~-~~

28 (j) A credit as provided in the Caregiver Tax Credit Act.

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

31 (a) A credit to all resident estates and trusts for taxes paid to

1 another state as provided in section 77-2730;

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

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

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

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

1 the state under sections 77-3801 to 77-3807 by a financial institution.

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

8 (6) There shall be allowed to all individuals nonrefundable credits
9 against the income tax imposed by the Nebraska Revenue Act of 1967 as
10 provided in section 77-3604 and refundable credits against the income tax
11 imposed by the Nebraska Revenue Act of 1967 as provided in section
12 77-3605.

13 (7)(a) For taxable years beginning or deemed to begin on or after
14 January 1, 2020, and before January 1, 2026, under the Internal Revenue
15 Code of 1986, as amended, a nonrefundable credit against the income tax
16 imposed by the Nebraska Revenue Act of 1967 in the amount of five
17 thousand dollars shall be allowed to any individual who purchases a
18 residence during the taxable year if such residence:

19 (i) Is located within an area that has been declared an extremely
20 blighted area under section 18-2101.02;

21 (ii) Is the individual's primary residence; and

22 (iii) Was not purchased from a family member of the individual or a
23 family member of the individual's spouse.

24 (b) The credit provided in this subsection shall be claimed for the
25 taxable year in which the residence is purchased. If the individual
26 cannot fully utilize the credit for such year, the credit may be carried
27 forward to subsequent taxable years until fully utilized.

28 (c) No more than one credit may be claimed under this subsection
29 with respect to a single residence.

30 (d) The credit provided in this subsection shall be subject to
31 recapture by the Department of Revenue if the individual claiming the

1 credit sells or otherwise transfers the residence or quits using the
2 residence as his or her primary residence within five years after the end
3 of the taxable year in which the credit was claimed.

4 (e) For purposes of this subsection, family member means an
5 individual's spouse, child, parent, brother, sister, grandchild, or
6 grandparent, whether by blood, marriage, or adoption.

7 (8) There shall be allowed to all individuals refundable credits
8 against the income tax imposed by the Nebraska Revenue Act of 1967 as
9 provided in the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher
10 Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the
11 Renewable Chemical Production Tax Credit Act.

12 (9)(a) For taxable years beginning or deemed to begin on or after
13 January 1, 2022, under the Internal Revenue Code of 1986, as amended, a
14 refundable credit against the income tax imposed by the Nebraska Revenue
15 Act of 1967 shall be allowed to the parent of a stillborn child if:

16 (i) A fetal death certificate is filed pursuant to subsection (1) of
17 section 71-606 for such child;

18 (ii) Such child had advanced to at least the twentieth week of
19 gestation; and

20 (iii) Such child would have been a dependent of the individual
21 claiming the credit.

22 (b) The amount of the credit shall be two thousand dollars.

23 (c) The credit shall be allowed for the taxable year in which the
24 stillbirth occurred.

25 (10) There shall be allowed to all individuals refundable credits
26 against the income tax imposed by the Nebraska Revenue Act of 1967 as
27 provided in section 77-7203 and nonrefundable credits against the income
28 tax imposed by the Nebraska Revenue Act of 1967 as provided in section
29 77-7204.

30 Sec. 6. Original section 77-2715.07, Revised Statutes Supplement,
31 2023, is repealed.