

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 14

Introduced by Krist, 10.

Read first time January 10, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 49-801.01, 77-2715.07, 77-2717, and 77-2734.03, Revised
3 Statutes Cumulative Supplement, 2012; to adopt the
4 Elementary and Secondary Educational Opportunity Act; to
5 harmonize provisions; to provide an operative date; to
6 provide severability; to repeal the original sections;
7 and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

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

4 Sec. 2. The Legislature hereby finds that:

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

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

12 (3) For parents and legal guardians who are paying taxes
13 in support of public elementary and secondary schools, choosing
14 privately operated schools for their children, if not fully precluded
15 financially, can be a financial burden, for typically those parents
16 and legal guardians will be paying twice for education, both tuition
17 and taxes;

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

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

25 (6) It is in the best interest of the State of Nebraska

1 and its citizens to encourage individuals and businesses to support
2 organizations that financially assist parents and legal guardians to
3 enroll their children in privately operated elementary and secondary
4 schools, and such encouragement can be accomplished through limited
5 tax credits.

6 Sec. 3. For purposes of the Elementary and Secondary
7 Educational Opportunity Act:

8 (1) Department means the Department of Revenue;

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

12 (3) Eligible student means a resident of Nebraska who (a)
13 is a dependent member of a household for which the gross income for
14 the most recently concluded calendar year before the student receives
15 an education scholarship pursuant to the Elementary and Secondary
16 Educational Opportunity Act does not exceed three times the income
17 standard used to qualify for a free or reduced-price lunch under the
18 National School Lunch Program established under 42 U.S.C. 1751 et
19 seq. and (b) is or may be enrolled as a full-time student in any of
20 grades kindergarten through twelve in a qualified school;

21 (4) Qualified school means any nongovernmental, privately
22 operated elementary or secondary school located in this state that
23 (a) is operated not for profit, (b) does not discriminate on the
24 basis of race, color, or national origin, (c) complies with all
25 health and safety laws or codes that apply to privately operated

1 schools, and (d) fulfills the accreditation or approval requirements
2 established by the State Board of Education pursuant to section
3 79-318;

4 (5) Scholarship-granting organization means a charitable
5 organization in this state that (a) is exempt from federal income
6 taxation pursuant to section 501(c)(3) of the Internal Revenue Code
7 of 1986, as amended, and (b) is certified pursuant to section 4 of
8 this act to provide tax-credit-supported education scholarships to
9 eligible students to assist them in attending qualified schools; and

10 (6) Tuition means any amount charged by a qualified
11 school for enrollment in its instructional program.

12 Sec. 4. (1) An applicant may apply to the department to
13 become certified as a scholarship-granting organization under the
14 Elementary and Secondary Educational Opportunity Act. An applicant
15 shall obtain such certification prior to providing any education
16 scholarships to eligible students under the act. The applicant shall
17 provide the department with sufficient information to show:

18 (a) That the applicant is exempt from federal income
19 taxation under section 501(c)(3) of the Internal Revenue Code of
20 1986, as amended;

21 (b) That the applicant will offer one or more education
22 scholarship programs that provide:

23 (i) First-time education scholarships to eligible
24 students who (A) are entering kindergarten in a qualified school, (B)
25 are entering ninth grade in a qualified school, or (C) are

1 transferring from a public school to a qualified school and are
2 entering any of grades kindergarten through twelve; and

3 (ii) Ongoing education scholarships to eligible students
4 who have received a first-time education scholarship until such
5 student graduates from high school or reaches twenty-one years of
6 age, whichever comes first. A student shall continue to be eligible
7 for ongoing education scholarships regardless of household income;

8 (c) That the applicant will allocate at least ninety-five
9 percent of its revenue for education scholarships in accordance with
10 section 10 of this act; and

11 (d) That the applicant will provide education
12 scholarships for eligible students without limiting education
13 scholarship availability to only one qualified school.

14 (2) If the applicant meets the requirements of this
15 section, the department shall certify such applicant as a
16 scholarship-granting organization for tax-credit purposes under the
17 Elementary and Secondary Educational Opportunity Act. Such
18 certification is subject to revocation by the department if the
19 scholarship-granting organization subsequently fails to fulfill the
20 requirements of this section.

21 Sec. 5. (1) An individual taxpayer who makes one or more
22 cash contributions to one or more scholarship-granting organizations
23 during a tax year shall be eligible for a credit against the income
24 tax due under the Nebraska Revenue Act of 1967. The amount of the
25 credit shall be sixty percent of the total of such contributions made

1 during the tax year.

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

6 (3) The tax credit allowed under this section shall not
7 exceed the taxpayer's income tax liability for the tax year, but any
8 amount that would otherwise have qualified for the credit but for
9 this limitation may be carried forward and applied against the
10 taxpayer's income tax liability for the next five years immediately
11 following the tax year in which the credit is first allowed. The tax
12 credit cannot be carried back.

13 (4) The tax credit shall not be allowed if the taxpayer
14 designates all or any part of the contribution to a scholarship-
15 granting organization for the direct benefit of any eligible student
16 specifically identified by the taxpayer.

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

19 Sec. 6. (1) Any partnership, any limited liability
20 company, and any corporation having an election in effect under
21 subchapter S of the Internal Revenue Code of 1986, as amended, which
22 is carrying on any trade or business for which deductions would be
23 allowed under section 162 of the Internal Revenue Code of 1986, as
24 amended, or carrying on any rental activity, which makes one or more
25 cash contributions to one or more scholarship-granting organizations

1 during a tax year shall be eligible for a credit against the income
2 tax due under the Nebraska Revenue Act of 1967. The amount of the
3 credit shall be sixty percent of the total of such contributions made
4 during the tax year. The credit shall be attributed to each partner,
5 member, or shareholder in the same proportion used to report the
6 partnership's, limited liability company's, or subchapter S
7 corporation's income or loss for income tax purposes.

8 (2) The tax credit allowed under this section shall not
9 exceed the taxpayer's income tax liability for the tax year, but any
10 amount that would otherwise have qualified for the credit but for
11 this limitation may be carried forward and applied against the
12 taxpayer's income tax liability for the next five years immediately
13 following the tax year in which the credit is first allowed. The tax
14 credit cannot be carried back.

15 (3) The tax credit shall not be allowed if the taxpayer
16 designates all or any part of the contribution to a scholarship-
17 granting organization for the direct benefit of any eligible student
18 specifically identified by the taxpayer.

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

21 Sec. 7. (1) An estate or trust which makes one or more
22 cash contributions to one or more scholarship-granting organizations
23 during a tax year shall be eligible for a credit against the income
24 tax due under the Nebraska Revenue Act of 1967. The amount of the
25 credit shall be sixty percent of the total of such contributions made

1 during the tax year. Any credit not used by the estate or trust may
2 be attributed to each beneficiary of the estate or trust in the same
3 proportion used to report the beneficiary's income from the estate or
4 trust for income tax purposes.

5 (2) The tax credit allowed under this section shall not
6 exceed the taxpayer's income tax liability for the tax year, but any
7 amount that would otherwise have qualified for the credit but for
8 this limitation may be carried forward and applied against the
9 taxpayer's income tax liability for the next five years immediately
10 following the tax year in which the credit is first allowed. The tax
11 credit cannot be carried back.

12 (3) The tax credit shall not be allowed if the taxpayer
13 designates all or any part of the contribution to a scholarship-
14 granting organization for the direct benefit of any eligible student
15 specifically identified by the taxpayer.

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

18 Sec. 8. (1) A corporate taxpayer as defined in section
19 77-2734.04 which makes one or more cash contributions to one or more
20 scholarship-granting organizations during a tax year shall be
21 eligible for a credit against the income tax due under the Nebraska
22 Revenue Act of 1967. The amount of the credit shall be sixty percent
23 of the total of such contributions made during the tax year.

24 (2) The tax credit allowed under this section shall not
25 exceed the taxpayer's income tax liability for the tax year, but any

1 amount that would otherwise have qualified for the credit but for
2 this limitation may be carried forward and applied against the
3 taxpayer's income tax liability for the next five years immediately
4 following the tax year in which the credit is first allowed. The tax
5 credit cannot be carried back.

6 (3) The tax credit shall not be allowed if the taxpayer
7 designates all or any part of the contribution to a scholarship-
8 granting organization for the direct benefit of any eligible student
9 specifically identified by the taxpayer.

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

12 Sec. 9. (1) Prior to making a contribution to a
13 scholarship-granting organization, any taxpayer desiring to claim a
14 tax credit allowed under the Elementary and Secondary Educational
15 Opportunity Act shall notify the scholarship-granting organization of
16 the taxpayer's intent to make a contribution and the amount thereof.
17 Upon receiving each such notification of intent to make a
18 contribution, the scholarship-granting organization shall request
19 from the department preapproval for a tax credit allowed under the
20 act. The department shall consider the request pursuant to subsection
21 (3) of this section and, within thirty days after receiving the
22 request, shall notify the scholarship-granting organization of its
23 determination. If the department preapproves the request for a tax
24 credit, the scholarship-granting organization shall promptly notify
25 the taxpayer of the preapproved amount.

1 (2) In order to be allowed a tax credit as provided by
2 the act, the taxpayer shall make its contribution within thirty days
3 after receiving notice from the scholarship-granting organization of
4 the preapproved amount. If the scholarship-granting organization does
5 not receive the contribution within the required thirty days, it
6 shall notify the department of such fact and the department shall no
7 longer include such preapproved amount when calculating the limit
8 prescribed in subsection (3) of this section. If the scholarship-
9 granting organization receives the contribution within the required
10 thirty days, it shall provide the taxpayer with a receipt for the
11 contribution, which shall show the name and address of the
12 scholarship-granting organization, the date the scholarship-granting
13 organization was certified by the department, the name, address, and,
14 if available, tax identification number of the taxpayer making the
15 contribution, the amount of the contribution, and the date the
16 contribution was received.

17 (3) The department shall (a) consider requests for tax
18 credits in the order in which they are received and (b) preapprove
19 tax credits up to the limits provided in this subsection. The
20 aggregate amount of preapproved credits shall not exceed ten million
21 dollars for calendar year 2013, twelve million dollars for calendar
22 year 2014, fourteen million dollars for calendar year 2015, sixteen
23 million dollars for calendar year 2016, eighteen million dollars for
24 calendar year 2017, and twenty million dollars for calendar year
25 2018. Beginning January 1, 2019, and each January 1 thereafter, the

1 department shall adjust the annual limit on the aggregate amount of
2 preapproved credits by the cumulative percentage change in the
3 Consumer Price Index for All Urban Consumers published by the Federal
4 Bureau of Labor Statistics for the one-year period ending on the
5 previous September 30. Such limit shall be rounded to the nearest
6 one-thousand-dollar amount. Once preapproved credits have reached the
7 designated annual limit for any calendar year, no additional credits
8 shall be preapproved for such calendar year. Credits shall be
9 prorated among the requests received on the day the annual limit is
10 exceeded.

11 Sec. 10. In order for a scholarship-granting organization
12 to remain certified under the Elementary and Secondary Educational
13 Opportunity Act, the scholarship-granting organization must allocate
14 at least ninety-five percent of its revenue for education
15 scholarships provided to eligible students, and no more than five
16 percent of its revenue shall be used or reserved for administrative
17 costs of the scholarship-granting organization. For purposes of this
18 requirement, revenue is allocated when it is expended or otherwise
19 irrevocably encumbered for expenditure. The percentage of funds
20 allocated for education scholarships shall be measured as a monthly
21 average over the most recent twenty-four-month period or, for a
22 scholarship-granting organization that has been certified for less
23 than twenty-four months, over the period of time that the
24 scholarship-granting organization has been certified.

25 Sec. 11. Each scholarship-granting organization shall

1 annually submit to the department no later than December 1 of each
2 year an audited financial information report for its most recent
3 fiscal year certified by an independent public accountant. The
4 scholarship-granting organization shall include with such report a
5 summary description of its policies and procedures for awarding
6 education scholarships and any other information requested by the
7 department.

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

16 Sec. 13. The department may adopt and promulgate rules
17 and regulations to carry out the Elementary and Secondary Educational
18 Opportunity Act.

19 Sec. 14. Section 49-801.01, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 49-801.01 Except as provided by Article VIII, section 1B,
22 of the Constitution of Nebraska and in sections 77-1106, 77-1108,
23 77-1109, 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123,
24 77-27,191, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515, 77-5527 to
25 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802, 77-5803,

1 77-5806, 77-5903, 77-6302, and 77-6306 and sections 3, 4, and 6 of
2 this act, any reference to the Internal Revenue Code refers to the
3 Internal Revenue Code of 1986 as it exists on March 8, 2012.

4 Sec. 15. Section 77-2715.07, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

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

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

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

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

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

20 (b) For returns filed reporting federal adjusted gross
21 income of twenty-nine thousand dollars or less, a refundable credit
22 equal to a percentage of the federal credit allowable under section
23 21 of the Internal Revenue Code of 1986, as amended, whether or not
24 the federal credit was limited by the federal tax liability. The
25 percentage of the federal credit shall be one hundred percent for

1 incomes not greater than twenty-two thousand dollars, and the
2 percentage shall be reduced by ten percent for each one thousand
3 dollars, or fraction thereof, by which the reported federal adjusted
4 gross income exceeds twenty-two thousand dollars;

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

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

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

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

21 (a) A credit for personal exemptions allowed under
22 section 77-2716.01;

23 (b) A credit for contributions to certified community
24 betterment programs as provided in the Community Development
25 Assistance Act. Each partner, each shareholder of an electing

1 subchapter S corporation, each beneficiary of an estate or trust, or
2 each member of a limited liability company shall report his or her
3 share of the credit in the same manner and proportion as he or she
4 reports the partnership, subchapter S corporation, estate, trust, or
5 limited liability company income;

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

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

10 (e) A credit as provided in the Elementary and Secondary
11 Educational Opportunity Act.

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

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

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

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

1 for an income tax credit as an owner of agricultural assets under the
2 Beginning Farmer Tax Credit Act shall be equal to the partner's,
3 shareholder's, member's, or beneficiary's portion of the amount of
4 tax credit distributed pursuant to subsection (4) of section 77-5211.

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

15 (b) For all taxable years beginning on or after January
16 1, 2009, under the Internal Revenue Code of 1986, as amended, there
17 shall be allowed to each partner, shareholder, member, or beneficiary
18 of a partnership, subchapter S corporation, limited liability
19 company, or estate or trust a nonrefundable credit against the income
20 tax imposed by the Nebraska Revenue Act of 1967 equal to 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 (c) Each partner, shareholder, member, or beneficiary
25 shall report his or her share of the credit in the same manner and

1 proportion as he or she reports the partnership, subchapter S
2 corporation, limited liability company, or estate or trust income. If
3 any partner, shareholder, member, or beneficiary cannot fully utilize
4 the credit for that year, the credit may not be carried forward or
5 back.

6 Sec. 16. Section 77-2717, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

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

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

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

1 A nonrefundable income tax credit shall be allowed for all
2 nonresident estates and trusts as provided in the Elementary and
3 Secondary Educational Opportunity Act and the New Markets Job Growth
4 Investment Act.

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

17 (3) The beneficiaries of such estate or trust who are
18 residents of this state shall include in their income their
19 proportionate share of such estate's or trust's federal income and
20 shall reduce their Nebraska tax liability by their proportionate
21 share of the credits as provided in the Angel Investment Tax Credit
22 Act, the Elementary and Secondary Educational Opportunity Act, the
23 Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska
24 Advantage Research and Development Act, and the New Markets Job
25 Growth Investment Act. There shall be allowed to a beneficiary a

1 refundable income tax credit under the Beginning Farmer Tax Credit
2 Act for all taxable years beginning or deemed to begin on or after
3 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

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

22 (5) In the absence of the nonresident beneficiary's
23 executed agreement being attached to the Nebraska fiduciary return,
24 the estate or trust shall remit a portion of such beneficiary's
25 income which was derived from or attributable to Nebraska sources

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

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

24 (7) For purposes of this section, unless the context
25 otherwise requires, simple trust shall mean any trust instrument

1 which (a) requires that all income shall be distributed currently to
2 the beneficiaries, (b) does not allow amounts to be paid, permanently
3 set aside, or used in the tax year for charitable purposes, and (c)
4 does not distribute amounts allocated in the corpus of the trust. Any
5 trust which does not qualify as a simple trust shall be deemed a
6 complex trust.

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

11 Sec. 17. Section 77-2734.03, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

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

21 (b) For taxable years commencing on or after January 1,
22 1997, any insurer paying a tax on premiums and assessments pursuant
23 to section 77-908 or 81-523, any electric cooperative organized under
24 the Joint Public Power Authority Act, or any credit union shall be
25 credited, in the computation of the tax due under the Nebraska

1 Revenue Act of 1967, with the amount paid during the taxable year as
2 (i) taxes on such premiums and assessments included as Nebraska
3 premiums and assessments under section 77-2734.05 and (ii) taxes in
4 lieu of intangible tax.

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

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

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

19 (4) The changes made to this section by Laws 2004, LB
20 983, apply to motor fuels purchased during any tax year ending or
21 deemed to end on or after January 1, 2005, under the Internal Revenue
22 Code of 1986, as amended.

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

1 and Development Act.

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

5 (7) There shall be allowed to corporate taxpayers a
6 nonrefundable income tax credit as provided in the Elementary and
7 Secondary Educational Opportunity Act and the New Markets Job Growth
8 Investment Act.

9 Sec. 18. This act becomes operative for all taxable years
10 beginning or deemed to begin on or after January 1, 2013, under the
11 Internal Revenue Code of 1986, as amended.

12 Sec. 19. If any section in this act or any part of any
13 section is declared invalid or unconstitutional, the declaration
14 shall not affect the validity or constitutionality of the remaining
15 portions.

16 Sec. 20. Original sections 49-801.01, 77-2715.07,
17 77-2717, and 77-2734.03, Revised Statutes Cumulative Supplement,
18 2012, are repealed.

19 Sec. 21. Since an emergency exists, this act takes effect
20 when passed and approved according to law.