

LEGISLATURE OF NEBRASKA  
 NINETY-NINTH LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 28**  
 FINAL READING

Introduced by Connealy, 16; Baker, 44; Bourne, 8; Cornett, 45;  
 Foley, 29; Kruse, 13; Dw. Pedersen, 39; Price, 26;  
 Synowiecki, 7; Wehrbein, 2; Aguilar, 35; Byars, 30;  
 Cunningham, 40; McDonald, 41; Schimek, 27;  
 Thompson, 14; Janssen, 15; Johnson, 37; Preister, 5;  
 Stuhr, 24; Hudkins, 21; Howard, 9

Read first time January 6, 2005

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
 2 77-2701, Revised Statutes Supplement, 2004; to provide an  
 3 income tax credit for certain charitable contributions;  
 4 to provide a termination date; to provide an operative  
 5 date; and to repeal the original section.  
 6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-2701, Revised Statutes Supplement,  
2 2004, is amended to read:

3           77-2701. Sections 77-2701 to 77-27,135.01 and 77-27,222  
4 and sections 2 to 8 of this act shall be known and may be cited as  
5 the Nebraska Revenue Act of 1967.

6           Sec. 2. (1) For purposes of sections 2 to 8 of this act,  
7 subject to subsection (2) of this section, planned gift means an  
8 irrevocable contribution to a qualified endowment when the  
9 contribution uses any of the following techniques authorized under  
10 the Internal Revenue Code of 1986, as amended:

11           (a) Charitable remainder unitrusts, as defined by section  
12 664(d) (2) of the code;

13           (b) Charitable remainder annuity trusts, as defined by  
14 section 664(d) (1) of the code;

15           (c) Pooled income fund trusts, as defined by section  
16 642(c) (5) of the code;

17           (d) Charitable lead unitrusts qualifying under section  
18 170(f) (2) (B) of the code;

19           (e) Charitable lead annuity trusts qualifying under  
20 section 170(f) (2) (B) of the code;

21           (f) Charitable gift annuities undertaken pursuant to  
22 section 1011(b) of the code;

23           (g) Deferred charitable gift annuities undertaken  
24 pursuant to section 1011(b) of the code;

25           (h) Charitable life estate agreements qualifying under  
26 section 170(f) (3) (B) of the code; or

27           (i) Paid-up life insurance policies qualifying as a  
28 deduction under section 170 of the code.

1           (2) (a) A contribution using a technique described in  
2 subdivision (1) (a) or (1) (b) of this section is not a planned gift  
3 unless the trust agreement provides that the trust cannot terminate  
4 and the beneficiaries' interest in the trust cannot be assigned or  
5 contributed to the qualified endowment sooner than the earlier of:

6           (i) The date of death of the beneficiaries; or

7           (ii) Five years after the date of the contribution.

8           (b) A contribution using the technique described in  
9 subdivision (1) (g) of this section is not a planned gift unless the  
10 payment of the annuity is required to begin within the life  
11 expectancy of the annuitant or of the joint life expectancies of  
12 the annuitants, if more than one annuitant, as determined using the  
13 actuarial tables adopted by the Department of Revenue in effect on  
14 the date of the contribution. The department may adopt and  
15 promulgate rules and regulations adopting life expectancy tables  
16 that are derived from the actuarial tables contained in the  
17 publications of the Internal Revenue Service.

18           (c) A contribution using a technique described in  
19 subdivision (1) (f) or (1) (g) of this section is not a planned gift  
20 unless the annuity agreement provides that the interest of the  
21 annuitant or annuitants in the gift annuity cannot be assigned to  
22 the qualified endowment sooner than the earlier of:

23           (i) The date of death of the annuitant or annuitants; or

24           (ii) Five years after the date of the contribution.

25           (d) A contribution using a technique described in  
26 subdivision (1) (f) or (1) (g) of this section is not a planned gift  
27 unless the annuity is a qualified charitable gift annuity as  
28 defined in section 59-1802.

1           Sec. 3. For purposes of sections 2 to 8 of this act,  
2 qualified endowment means a permanent, irrevocable fund that is  
3 used for Nebraska charitable purposes and held by a Nebraska  
4 incorporated or established organization that:

5           (1) (a) Is a tax-exempt organization under section  
6 501(c) (3) of the Internal Revenue Code of 1986, as amended; or

7           (b) Is a bank or trust company that is holding the fund  
8 on behalf of a tax-exempt organization; and

9           (2) Holds the fund as a permanent endowment fund.

10           Sec. 4. (1) A resident individual shall be allowed a  
11 credit against the income tax due under the Nebraska Revenue Act of  
12 1967 in an amount equal to thirty percent of the present value of  
13 the aggregate amount of the charitable gift portion of a planned  
14 gift made by the individual during the tax year to any qualified  
15 endowment. The maximum credit per individual per tax year is ten  
16 thousand dollars. The credit allowed under this section shall not  
17 exceed the taxpayer's income tax liability.

18           (2) The credit allowed under this section cannot be  
19 claimed to the extent that the taxpayer has included the  
20 contribution upon which the amount of the credit was computed as a  
21 deduction on his or her state income tax return.

22           (3) The credit cannot be carried back or forward, and the  
23 credit shall be applied to the tax year in which the planned gift  
24 is made.

25           Sec. 5. A contribution to a qualified endowment by a  
26 small business corporation, partnership, or limited liability  
27 company carrying on any trade or business for which deductions  
28 would be allowed under section 162 of the Internal Revenue Code or

1 carrying on any rental activity qualifies for the credit provided  
2 in section 4 of this act. The credit shall be attributed to  
3 shareholders, partners, or members in the same proportion used to  
4 report the corporation's, partnership's, or limited liability  
5 company's income or loss for income tax purposes. The maximum  
6 credit per shareholder, partner, or member per tax year is ten  
7 thousand dollars, subject to the limitation in subsection (2) of  
8 section 4 of this act. The credit allowed under this section may  
9 not exceed the taxpayer's income tax liability. The credit cannot  
10 be carried back or forward, and the credit shall be applied to the  
11 tax year in which the contribution is made.

12 Sec. 6. A corporation shall be allowed a credit against  
13 the income tax due under the Nebraska Revenue Act of 1967 in an  
14 amount equal to twenty percent of any contribution made by the  
15 corporation to a qualified endowment. The maximum credit that may  
16 be claimed by a corporation for contributions made per tax year  
17 under this section is ten thousand dollars. The credit allowed  
18 under this section shall not exceed the taxpayer's income tax  
19 liability. The credit allowed under this section cannot be claimed  
20 to the extent that the taxpayer has included the contribution upon  
21 which the amount of the credit was computed as a deduction on its  
22 state income tax return. The credit cannot be carried back or  
23 forward, and the credit shall be applied to the tax year in which  
24 the contribution is made.

25 Sec. 7. A contribution to a qualified endowment by a  
26 resident estate or trust qualifies for the credit provided in  
27 section 4 of this act if the contribution is a planned gift or in  
28 section 6 of this act if the contribution is an outright gift to a

1 qualified endowment. Any credit not used by the estate or trust  
2 may be attributed to each beneficiary of the estate or trust in the  
3 same proportion used to report the beneficiary's income from the  
4 estate or trust for Nebraska income tax purposes. The maximum  
5 credit per beneficiary is ten thousand dollars, subject to the  
6 limitation in subsection (2) of section 4 of this act, and the  
7 credit can only be claimed in the tax year in which the  
8 contribution is made. The credit cannot be carried back or  
9 forward.

10           Sec. 8.   Sections 2 to 7 of this act terminate for  
11 taxable years beginning or deemed to begin on or after January 1,  
12 2010, under the Internal Revenue Code of 1986, as amended.

13           Sec. 9.   This act becomes operative for taxable years  
14 beginning or deemed to begin on or after January 1, 2006, under the  
15 Internal Revenue Code of 1986, as amended.

16           Sec. 10.  Original section 77-2701, Revised Statutes  
17 Supplement, 2004, is repealed.