

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 272

Introduced by Morfeld, 46.

Read first time January 15, 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 Apprenticeship Training Program Tax Credit
- 4 Act; to harmonize provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Apprenticeship Training Program Tax Credit Act.

3 Sec. 2. For purposes of the Apprenticeship Training Program Tax
4 Credit Act:

5 (1) Department means the Department of Revenue; and

6 (2) Qualified apprenticeship training program means a program that:

7 (a) Is administered pursuant to 29 U.S.C. 50;

8 (b) Consists of at least one thousand two hundred hours but not more
9 than eight thousand hours of on-the-job apprenticeship training;

10 (c) Is certified in accordance with regulations adopted by the
11 Office of Apprenticeship of the United States Department of Labor; and

12 (d) Is administered by trustees.

13 Sec. 3. (1) From November 1 to December 31 of each year, a taxpayer
14 who plans to employ one or more apprentices as part of a qualified
15 apprenticeship training program during the following calendar year may
16 apply to the department to receive tax credits under the Apprenticeship
17 Training Program Tax Credit Act.

18 (2) The tax credit shall be in an amount equal to one dollar
19 multiplied by the total number of hours expected to be worked during the
20 following calendar year by apprentices employed by the taxpayer as part
21 of a qualified apprenticeship training program, except that the amount of
22 the credit allowed in any year with respect to any individual apprentice
23 shall not exceed two thousand dollars or fifty percent of the total wages
24 expected to be paid to such apprentice during the following calendar
25 year, whichever is less.

26 (3) The credit shall be a nonrefundable credit against the income
27 tax imposed by the Nebraska Revenue Act of 1967. The credit shall be
28 available for taxable years beginning or deemed to begin on or after
29 January 1, 2020, under the Internal Revenue Code of 1986, as amended.

30 (4) Applications for the credit shall be submitted on a form
31 prescribed by the department and shall include the following information:

1 (a) The name and address of the taxpayer;

2 (b) The total number of apprentices that will be employed by the
3 taxpayer during the following calendar year;

4 (c) The number of hours expected to be worked by each apprentice
5 during the following calendar year;

6 (d) The total wages expected to be paid to each apprentice during
7 the following calendar year; and

8 (e) Any other documentation required by the department.

9 Sec. 4. (1) If the department determines that an application is
10 complete and that the taxpayer qualifies for tax credits, the department
11 shall approve the application within the limits set forth in this section
12 and shall certify the amount of tax credits approved to the taxpayer.

13 (2) The department shall consider applications in the order in which
14 they are received and may approve up to two million five hundred thousand
15 dollars in tax credits in any calendar year.

16 Sec. 5. (1) A taxpayer shall claim the tax credit by attaching the
17 tax credit certification received from the department under section 4 of
18 this act to the taxpayer's tax return.

19 (2) Any tax credit claimed but not used in a taxable year may be
20 carried forward to subsequent taxable years until fully utilized.

21 Sec. 6. The department may adopt and promulgate rules and
22 regulations to carry out the Apprenticeship Training Program Tax Credit
23 Act.

24 Sec. 7. Section 77-2715.07, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 77-2715.07 (1) There shall be allowed to qualified resident
27 individuals as a nonrefundable credit against the income tax imposed by
28 the Nebraska Revenue Act of 1967:

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

31 (b) A credit for taxes paid to another state as provided in section

1 77-2730.

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

4 (a) For returns filed reporting federal adjusted gross incomes of
5 greater than twenty-nine thousand dollars, a nonrefundable credit equal
6 to twenty-five percent of the federal credit allowed under section 21 of
7 the Internal Revenue Code of 1986, as amended, except that for taxable
8 years beginning or deemed to begin on or after January 1, 2015, such
9 nonrefundable credit shall be allowed only if the individual would have
10 received the federal credit allowed under section 21 of the code after
11 adding back in any carryforward of a net operating loss that was deducted
12 pursuant to such section in determining eligibility for the federal
13 credit;

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

29 (c) A refundable credit as provided in section 77-5209.01 for
30 individuals who qualify for an income tax credit as a qualified beginning
31 farmer or livestock producer under the Beginning Farmer Tax Credit Act

1 for all taxable years beginning or deemed to begin on or after January 1,
2 2006, under the Internal Revenue Code of 1986, as amended;

3 (d) A refundable credit for individuals who qualify for an income
4 tax credit under the Angel Investment Tax Credit Act, the Nebraska
5 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
6 and Development Act, or the Volunteer Emergency Responders Incentive Act;
7 and

8 (e) A refundable credit equal to ten percent of the federal credit
9 allowed under section 32 of the Internal Revenue Code of 1986, as
10 amended, except that for taxable years beginning or deemed to begin on or
11 after January 1, 2015, such refundable credit shall be allowed only if
12 the individual would have received the federal credit allowed under
13 section 32 of the code after adding back in any carryforward of a net
14 operating loss that was deducted pursuant to such section in determining
15 eligibility for the federal credit.

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

19 (a) A credit for personal exemptions allowed under section
20 77-2716.01;

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

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

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

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

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

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

6 (h) A credit as provided in the Apprenticeship Training Program Tax
7 Credit Act.

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

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

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

15 (c) A refundable credit for individuals who qualify for an income
16 tax credit as an owner of agricultural assets under the Beginning Farmer
17 Tax Credit Act for all taxable years beginning or deemed to begin on or
18 after January 1, 2009, under the Internal Revenue Code of 1986, as
19 amended. The credit allowed for each partner, shareholder, member, or
20 beneficiary of a partnership, corporation, limited liability company, or
21 estate or trust qualifying for an income tax credit as an owner of
22 agricultural assets under the Beginning Farmer Tax Credit Act shall be
23 equal to the partner's, shareholder's, member's, or beneficiary's portion
24 of the amount of tax credit distributed pursuant to subsection (4) of
25 section 77-5211.

26 (5)(a) For all taxable years beginning on or after January 1, 2007,
27 and before January 1, 2009, under the Internal Revenue Code of 1986, as
28 amended, there shall be allowed to each partner, shareholder, member, or
29 beneficiary of a partnership, subchapter S corporation, limited liability
30 company, or estate or trust a nonrefundable credit against the income tax
31 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the

1 partner's, shareholder's, member's, or beneficiary's portion of the
2 amount of franchise tax paid to the state under sections 77-3801 to
3 77-3807 by a financial institution.

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

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

18 (6) There shall be allowed to all individuals nonrefundable credits
19 against the income tax imposed by the Nebraska Revenue Act of 1967 as
20 provided in section 77-3604 and refundable credits against the income tax
21 imposed by the Nebraska Revenue Act of 1967 as provided in section
22 77-3605.

23 Sec. 8. Section 77-2717, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
26 before January 1, 2014, the tax imposed on all resident estates and
27 trusts shall be a percentage of the federal taxable income of such
28 estates and trusts as modified in section 77-2716, plus a percentage of
29 the federal alternative minimum tax and the federal tax on premature or
30 lump-sum distributions from qualified retirement plans. The additional
31 taxes shall be recomputed by (A) substituting Nebraska taxable income for

1 federal taxable income, (B) calculating what the federal alternative
2 minimum tax would be on Nebraska taxable income and adjusting such
3 calculations for any items which are reflected differently in the
4 determination of federal taxable income, and (C) applying Nebraska rates
5 to the result. The federal credit for prior year minimum tax, after the
6 recomputations required by the Nebraska Revenue Act of 1967, and the
7 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
8 and the Nebraska Advantage Research and Development Act shall be allowed
9 as a reduction in the income tax due. A refundable income tax credit
10 shall be allowed for all resident estates and trusts under the Angel
11 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
12 Credit Act, and the Nebraska Advantage Research and Development Act. A
13 nonrefundable income tax credit shall be allowed for all resident estates
14 and trusts as provided in the New Markets Job Growth Investment Act.

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

1 Credit Act, the Apprenticeship Training Program Tax Credit Act, and
2 section 77-27,238.

3 (b) The tax imposed on all nonresident estates and trusts shall be
4 the portion of the tax imposed on resident estates and trusts which is
5 attributable to the income derived from sources within this state. The
6 tax which is attributable to income derived from sources within this
7 state shall be determined by multiplying the liability to this state for
8 a resident estate or trust with the same total income by a fraction, the
9 numerator of which is the nonresident estate's or trust's Nebraska income
10 as determined by sections 77-2724 and 77-2725 and the denominator of
11 which is its total federal income after first adjusting each by the
12 amounts provided in section 77-2716. The federal credit for prior year
13 minimum tax, after the recomputations required by the Nebraska Revenue
14 Act of 1967, reduced by the percentage of the total income which is
15 attributable to income from sources outside this state, and the credits
16 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
17 Nebraska Advantage Research and Development Act shall be allowed as a
18 reduction in the income tax due. A refundable income tax credit shall be
19 allowed for all nonresident estates and trusts under the Angel Investment
20 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
21 and the Nebraska Advantage Research and Development Act. A nonrefundable
22 income tax credit shall be allowed for all nonresident estates and trusts
23 as provided in the Nebraska Job Creation and Mainstreet Revitalization
24 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
25 Credit Act, the Affordable Housing Tax Credit Act, the Apprenticeship
26 Training Program Tax Credit Act, and section 77-27,238.

27 (2) In all instances wherein a fiduciary income tax return is
28 required under the provisions of the Internal Revenue Code, a Nebraska
29 fiduciary return shall be filed, except that a fiduciary return shall not
30 be required to be filed regarding a simple trust if all of the trust's
31 beneficiaries are residents of the State of Nebraska, all of the trust's

1 income is derived from sources in this state, and the trust has no
2 federal tax liability. The fiduciary shall be responsible for making the
3 return for the estate or trust for which he or she acts, whether the
4 income be taxable to the estate or trust or to the beneficiaries thereof.
5 The fiduciary shall include in the return a statement of each
6 beneficiary's distributive share of net income when such income is
7 taxable to such beneficiaries.

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

22 (4) If any beneficiary of such estate or trust is a nonresident
23 during any part of the estate's or trust's taxable year, he or she shall
24 file a Nebraska income tax return which shall include (a) in Nebraska
25 adjusted gross income that portion of the estate's or trust's Nebraska
26 income, as determined under sections 77-2724 and 77-2725, allocable to
27 his or her interest in the estate or trust and (b) a reduction of the
28 Nebraska tax liability by his or her proportionate share of the credits
29 as provided in the Angel Investment Tax Credit Act, the Nebraska
30 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
31 and Development Act, the Nebraska Job Creation and Mainstreet

1 Revitalization Act, the New Markets Job Growth Investment Act, the School
2 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
3 Apprenticeship Training Program Tax Credit Act, and section 77-27,238 and
4 shall execute and forward to the fiduciary, on or before the original due
5 date of the Nebraska fiduciary return, an agreement which states that he
6 or she will file a Nebraska income tax return and pay income tax on all
7 income derived from or connected with sources in this state, and such
8 agreement shall be attached to the Nebraska fiduciary return for such
9 taxable year.

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

26 (6) The Tax Commissioner may allow a nonresident beneficiary to not
27 file a Nebraska income tax return if the nonresident beneficiary's only
28 source of Nebraska income was his or her share of the estate's or trust's
29 income which was derived from or attributable to sources within this
30 state, the nonresident did not file an agreement to file a Nebraska
31 income tax return, and the estate or trust has remitted the amount

1 required by subsection (5) of this section on behalf of such nonresident
2 beneficiary. The amount remitted shall be retained in satisfaction of the
3 Nebraska income tax liability of the nonresident beneficiary.

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

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

15 Sec. 9. Section 77-2734.03, Reissue Revised Statutes of Nebraska, is
16 amended to read:

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

24 (b) For taxable years commencing on or after January 1, 1997, any
25 insurer paying a tax on premiums and assessments pursuant to section
26 77-908 or 81-523, any electric cooperative organized under the Joint
27 Public Power Authority Act, or any credit union shall be credited, in the
28 computation of the tax due under the Nebraska Revenue Act of 1967, with
29 the amount paid during the taxable year as (i) taxes on such premiums and
30 assessments included as Nebraska premiums and assessments under section
31 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

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

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

25 (7) There shall be allowed to corporate taxpayers a nonrefundable
26 income tax credit as provided in the Nebraska Job Creation and Mainstreet
27 Revitalization Act, the New Markets Job Growth Investment Act, the School
28 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
29 Apprenticeship Training Program Tax Credit Act, and section 77-27,238.

30 Sec. 10. Original sections 77-2715.07, 77-2717, and 77-2734.03,
31 Reissue Revised Statutes of Nebraska, are repealed.