

AMENDMENTS TO LB364

Introduced by Revenue.

1 1. Strike the original sections and insert the following new
2 sections:

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

5 Sec. 2. The Legislature finds that:

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

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

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

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

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

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

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

2 (1) Department means the Department of Revenue;

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

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

7 (a) Is a dependent member of a household that, for the most recently
8 concluded calendar year before the student receives an education
9 scholarship pursuant to the act, has a gross income which does not exceed
10 the income indicated in the income eligibility guidelines for reduced
11 price meals under the National School Lunch Program in 7 C.F.R. part 210,
12 as such part existed on January 1, 2021; and

13 (b)(i) Is receiving an education scholarship for the first time and
14 is (A) entering kindergarten or ninth grade in a qualified school or (B)
15 transferring from a public school at which the student was enrolled for
16 at least one semester immediately preceding the first semester for which
17 the student receives an education scholarship to a qualified school and
18 is entering any of grades kindergarten through twelve;

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

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

25 (4) Qualified school means any nongovernmental, privately operated
26 elementary or secondary school located in this state that (a) is operated
27 not for profit, (b) complies with the antidiscrimination provisions of 42
28 U.S.C. 1981 as such section existed on January 1, 2021, (c) complies with
29 all health and life safety laws or codes that apply to privately operated
30 schools, and (d) fulfills the applicable accreditation or approval
31 requirements established by the State Board of Education pursuant to

1 section 79-318;

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

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

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

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

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

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

23 (d) That the applicant will provide education scholarships for
24 eligible students without limiting education scholarship availability to
25 only one qualified school;

26 (e) That the applicant will give first priority to eligible students
27 who received an education scholarship from an eligible scholarship-
28 granting organization during the previous school year and then to new
29 applicants whose household income levels do not exceed one hundred
30 eighty-five percent of the federal poverty level or who are in foster
31 care or out-of-home care;

1 (f) That the applicant will limit the maximum scholarship amount
2 awarded to any student to the cost of tuition and fees at the qualified
3 school such student attends; and

4 (g) That the applicant will limit scholarship amounts awarded to
5 students in a manner that assures that the average of the scholarship
6 amounts awarded per student does not exceed seventy-five percent of the
7 statewide average general fund operating expenditures per formula student
8 for the most recently available complete data year as such terms are
9 defined in section 79-1003.

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

16 Sec. 5. (1) An individual taxpayer who makes one or more cash
17 contributions to one or more scholarship-granting organizations during a
18 tax year shall be eligible for a credit against the income tax due under
19 the Nebraska Revenue Act of 1967. Except as otherwise provided in the
20 Opportunity Scholarships Act, the amount of the credit shall be equal to
21 the lesser of (a) the total amount of such contributions made during the
22 tax year or (b) fifty percent of the income tax liability of such
23 taxpayer for the tax year. A taxpayer may only claim a credit pursuant to
24 this section for the portion of the contribution that was not claimed as
25 a charitable contribution under the Internal Revenue Code.

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

30 (3) The tax credit allowed under this section shall be a
31 nonrefundable credit. Any amount of the credit that is unused may be

1 carried forward and applied against the taxpayer's income tax liability
2 for the next five years immediately following the tax year in which the
3 credit is first allowed. The tax credit cannot be carried back.

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

7 (5) The tax credit allowed under this section is subject to section
8 9 of this act.

9 Sec. 6. (1) Any partnership, limited liability company, or
10 corporation having an election in effect under subchapter S of the
11 Internal Revenue Code of 1986, as amended, that (a) is carrying on any
12 trade or business for which deductions would be allowed under section 162
13 of the Internal Revenue Code of 1986, as amended, or is carrying on any
14 rental activity and (b) makes one or more cash contributions to one or
15 more scholarship-granting organizations during a tax year shall be
16 eligible for a credit against the income tax due under the Nebraska
17 Revenue Act of 1967. Except as otherwise provided in the Opportunity
18 Scholarships Act, the amount of the credit shall be equal to the lesser
19 of (a) the total amount of such contributions made during the tax year or
20 (b) fifty percent of the income tax liability of such taxpayer for the
21 tax year. A taxpayer may only claim a credit pursuant to this section for
22 the portion of the contribution that was not claimed as a charitable
23 contribution under the Internal Revenue Code. The credit shall be
24 attributed to each partner, member, or shareholder in the same proportion
25 used to report the partnership's, limited liability company's, or
26 subchapter S corporation's income or loss for income tax purposes.

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

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

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

6 Sec. 7. (1) An estate or trust which makes one or more cash
7 contributions to one or more scholarship-granting organizations during a
8 tax year shall be eligible for a credit against the income tax due under
9 the Nebraska Revenue Act of 1967. Except as otherwise provided in the
10 Opportunity Scholarships Act, the amount of the credit shall be equal to
11 the lesser of (a) the total amount of such contributions made during the
12 tax year or (b) fifty percent of the income tax liability of such
13 taxpayer for the tax year. A taxpayer may only claim a credit pursuant to
14 this section for the portion of the contribution that was not claimed as
15 a charitable contribution under the Internal Revenue Code. Any credit not
16 used by the estate or trust may be attributed to each beneficiary of the
17 estate or trust in the same proportion used to report the beneficiary's
18 income from the estate or trust for income tax purposes.

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

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

27 (4) The tax credit allowed under this section is subject to section
28 9 of this act.

29 Sec. 8. (1) A corporate taxpayer as defined in section 77-2734.04
30 which makes one or more cash contributions to one or more scholarship-
31 granting organizations during a tax year shall be eligible for a credit

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

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

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

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

19 Sec. 9. (1) Prior to making a contribution to a scholarship-
20 granting organization, any taxpayer desiring to claim a tax credit under
21 the Opportunity Scholarships Act shall notify the scholarship-granting
22 organization of the taxpayer's intent to make a contribution and the
23 amount to be claimed as a tax credit. Upon receiving each such
24 notification, the scholarship-granting organization shall notify the
25 department of the intended tax credit amount. If the department
26 determines that the intended tax credit amount in the notification would
27 exceed the limit specified in subsection (3) of this section, the
28 department shall notify the scholarship-granting organization of its
29 determination within thirty days after receipt of the notification. The
30 scholarship-granting organization shall then promptly notify the taxpayer
31 of the department's determination that the intended tax credit amount in

1 the notification is not available. If an amount less than the amount
2 indicated in the notification is available for a tax credit, the
3 department shall notify the scholarship-granting organization of the
4 available amount and the scholarship-granting organization shall notify
5 the taxpayer of the available amount within three business days.

6 (2) In order to be allowed a tax credit as provided by the act, the
7 taxpayer shall make its contribution between thirty-one and sixty days
8 after notifying the scholarship-granting organization of the taxpayer's
9 intent to make a contribution. If the scholarship-granting organization
10 does not receive the contribution within the required time period, it
11 shall notify the department of such fact and the department shall no
12 longer include such amount when calculating whether the limit prescribed
13 in subsection (3) of this section has been exceeded. If the scholarship-
14 granting organization receives the contribution within the required time
15 period, it shall provide the taxpayer with a receipt for the
16 contribution. The receipt shall show the name and address of the
17 scholarship-granting organization, the date the scholarship-granting
18 organization was certified by the department in accordance with section 4
19 of this act, the name, address, and, if available, tax identification
20 number of the taxpayer making the contribution, the amount of the
21 contribution, and the date the contribution was received.

22 (3) The department shall consider notifications regarding intended
23 tax credit amounts in the order in which they are received to ascertain
24 whether the intended tax credit amounts are within the annual limit of
25 five million dollars.

26 (4) Once credits have reached the annual limit of five million
27 dollars for any calendar year, no additional credits shall be allowed for
28 such calendar year. Credits shall be prorated among the notifications
29 received on the day the annual limit is exceeded.

30 Sec. 10. (1) In order for a scholarship-granting organization to
31 remain certified under the Opportunity Scholarships Act, the scholarship-

1 granting organization shall allocate at least ninety percent of its
2 revenue for education scholarships and no more than ten percent of its
3 revenue shall be used or reserved for administrative costs.

4 (2) For purposes of this section, revenue is allocated when it is
5 expended or otherwise irrevocably encumbered for expenditure. The
6 percentage of funds allocated for education scholarships shall be
7 measured as a monthly average over the most recent twenty-four-month
8 period or, for a scholarship-granting organization that has been
9 certified for less than twenty-four months, over the period of time that
10 the scholarship-granting organization has been certified.

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

15 (2) Each scholarship-granting organization shall include with the
16 report submitted under subsection (1) of this section a summary
17 description of (a) its policies and procedures for awarding education
18 scholarships, (b) the number of eligible students receiving education
19 scholarships in the most recent fiscal year, (c) the total amount of
20 contributions received for education scholarships in the most recent
21 fiscal year, and (d) the total amount of education scholarships awarded
22 in the most recent fiscal year.

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

26 Sec. 12. The Opportunity Scholarships Act shall not be construed as
27 granting any expanded or additional authority to the State of Nebraska to
28 control or influence the governance or policies of any qualified school
29 due to the fact that the qualified school admits and enrolls students who
30 receive education scholarships or as requiring any such qualified school
31 to admit or, once admitted, to continue the enrollment of any student

1 receiving an education scholarship.

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

4 Sec. 14. Sections 14 to 20 of this act shall be known and may be
5 cited as the Nebraska Child Care Contribution Tax Credit Act.

6 Sec. 15. The Legislature finds that COVID-19 has greatly impacted
7 the child care industry, and access to quality child care opportunities
8 is crucial to Nebraska's ongoing economic stability and growth.

9 Sec. 16. For purposes of the Nebraska Child Care Contribution Tax
10 Credit Act:

11 (1) Child means an individual who is twelve years of age or less;

12 (2) Child care and education provider means a person who owns or
13 operates an eligible child care and early childhood education program;

14 (3) Department means the Department of Revenue;

15 (4) Eligible child care and early childhood education program means
16 a program that:

17 (a) Is enrolled to participate in the quality rating and improvement
18 system developed under the Step Up to Quality Child Care Act;

19 (b) Is licensed as a family child care home I, family child care
20 home II, child care center, preschool, or school-age-only center; and

21 (c) Operates as a for-profit child care business or is a nonprofit
22 organization under the Internal Revenue Code of 1986;

23 (5) Intermediary means any organization that distributes funds for
24 the purpose of supporting an eligible child care and early childhood
25 education program;

26 (6) Qualifying contribution means a contribution in the form of
27 cash, check, cash equivalent, agricultural commodity, livestock, or
28 publicly traded security that is used for one or more of the purposes
29 described in subsection (4) of section 17 of this act. A contribution of
30 any other type of property or any service is not a qualifying
31 contribution; and

1 (7) Taxpayer means any person subject to the income tax imposed by
2 the Nebraska Revenue Act of 1986. The term includes resident and
3 nonresident individuals, estates, trusts, and corporations.

4 Sec. 17. (1) For taxable years beginning or deemed to begin on or
5 after January 1, 2022, and before January 1, 2027, under the Internal
6 Revenue Code of 1986, as amended, any taxpayer who makes a qualifying
7 contribution may apply to the department to receive a nonrefundable tax
8 credit against the income tax imposed by the Nebraska Revenue Act of
9 1967.

10 (2)(a) The credit shall be equal to either fifty percent or seventy-
11 five percent of the taxpayer's qualifying contribution made during the
12 taxable year, except that the credit for a taxpayer for any single
13 taxable year shall not exceed twenty-five thousand dollars or fifty
14 percent of the taxpayer's state income tax liability, whichever is less.

15 (b) The credit shall be equal to seventy-five percent of the
16 qualifying contribution if the eligible child care and early childhood
17 education program that receives the contribution has at least one child
18 enrolled in the child care subsidy program established pursuant to
19 section 68-1202 and the child care and education provider is actively
20 caring and billing for the child as verified by the Department of Health
21 and Human Services.

22 (c) The credit shall be equal to fifty percent of the qualifying
23 contribution if subdivision (2)(b) of this section does not apply.

24 (3) If a taxpayer does not use all of the credits earned for any
25 taxable year, the taxpayer may carry forward the unused credits for up to
26 five taxable years after the taxable year in which the credits were
27 earned. Credits shall not be carried back.

28 (4) In order to be considered a qualifying contribution, the
29 contribution must be:

30 (a) For the establishment or operation of an eligible child care and
31 early childhood education program;

1 (b) For the establishment of a registered grant or loan program for
2 parents requiring financial assistance for an eligible child care and
3 early childhood education program;

4 (c) To an early childhood collaborative or another intermediary for
5 the training, technical assistance, or mentorship of child care and
6 education providers;

7 (d) For the establishment or ongoing costs of an information
8 dissemination program that assists parents with information and referral
9 services for child care;

10 (e) To a for-profit child care business, including a family home
11 provider. The for-profit child care business must use the proceeds of a
12 qualifying contribution for (i) the acquisition or improvement of the
13 child care facilities or (ii) equipment; or

14 (f) To an intermediary for the establishment or operation of an
15 eligible child care and early childhood education program or a program
16 for parents requiring financial assistance for an eligible child care and
17 early childhood education program.

18 (5) A contribution shall not qualify for a credit under this section
19 if:

20 (a) The contribution is made to a child care provider in which the
21 taxpayer or a person related to the taxpayer has a financial interest
22 which would result in direct benefit to the taxpayer or related person;
23 or

24 (b) The contribution is made to a for-profit child care business and
25 is not directly invested in the acquisition or improvement of child care
26 facilities or equipment.

27 Sec. 18. (1) A taxpayer shall apply for the credit provided under
28 the Nebraska Child Care Contribution Tax Credit Act by submitting an
29 application to the department with the following information:

30 (a) Documentation to show that the contribution is a qualifying
31 contribution and meets the requirements provided in the act; and

1 (b) Any other documentation required by the department.

2 (2) If the department determines that the taxpayer qualifies for tax
3 credits under the act, the department shall approve the application and
4 certify the amount of credits approved to the taxpayer. The department
5 shall accept applications on an annual basis and shall consider the
6 applications in the order in which they are received. The department may
7 approve credits under this section until the total amount of credits
8 approved for the year equals five million dollars.

9 (3) The credits allowed under the act may be earned for taxable
10 years beginning or deemed to begin on or after January 1, 2022, and
11 before January 1, 2027.

12 Sec. 19. (1) If the department finds that a person has obtained a
13 credit by fraud or misrepresentation, the credits shall be disallowed and
14 the taxpayer's state income tax for the taxable year in which the credit
15 was claimed shall be increased by the amount necessary to recapture the
16 credit.

17 (2) Credits granted to a taxpayer, but later disallowed, may be
18 recovered by the department within three years after the end of the
19 taxable year in which the credit was claimed.

20 Sec. 20. The department may adopt and promulgate rules and
21 regulations to carry out the Nebraska Child Care Contribution Tax Credit
22 Act.

23 Sec. 21. Section 77-2715.07, Revised Statutes Cumulative Supplement,
24 2020, is amended to read:

25 77-2715.07 (1) There shall be allowed to qualified resident
26 individuals as a nonrefundable credit against the income tax imposed by
27 the Nebraska Revenue Act of 1967:

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

30 (b) A credit for taxes paid to another state as provided in section
31 77-2730.

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

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

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

28 (c) A refundable credit as provided in section 77-5209.01 for
29 individuals who qualify for an income tax credit as a qualified beginning
30 farmer or livestock producer under the Beginning Farmer Tax Credit Act
31 for all taxable years beginning or deemed to begin on or after January 1,

1 2006, under the Internal Revenue Code of 1986, as amended;

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

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

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

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

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

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

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

31 (e) A credit as provided in the Nebraska Job Creation and Mainstreet

1 Revitalization Act;

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

3 (g) A credit as provided in the Affordable Housing Tax Credit Act; ~~and~~

4 (h) A credit as provided in the Opportunity Scholarships Act; and

5 (i) A credit as provided in the Nebraska Child Care Contribution Tax
6 Credit Act.

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

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

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

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

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

1 amount of franchise tax paid to the state under sections 77-3801 to
2 77-3807 by a financial institution.

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

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

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

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

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

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

31 (iii) Was not purchased from a family member of the individual or a

1 family member of the individual's spouse.

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

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

8 (d) The credit provided in this subsection shall be subject to
9 recapture by the Department of Revenue if the individual claiming the
10 credit sells or otherwise transfers the residence or quits using the
11 residence as his or her primary residence within five years after the end
12 of the taxable year in which the credit was claimed.

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

16 (8) There shall be allowed to all individuals refundable credits
17 against the income tax imposed by the Nebraska Revenue Act of 1967 as
18 provided in the Nebraska Property Tax Incentive Act and the Renewable
19 Chemical Production Tax Credit Act.

20 Sec. 22. Section 77-2717, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
23 before January 1, 2014, the tax imposed on all resident estates and
24 trusts shall be a percentage of the federal taxable income of such
25 estates and trusts as modified in section 77-2716, plus a percentage of
26 the federal alternative minimum tax and the federal tax on premature or
27 lump-sum distributions from qualified retirement plans. The additional
28 taxes shall be recomputed by (A) substituting Nebraska taxable income for
29 federal taxable income, (B) calculating what the federal alternative
30 minimum tax would be on Nebraska taxable income and adjusting such
31 calculations for any items which are reflected differently in the

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

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

1 77-27,238.

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

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

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

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

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

1 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
2 and Development Act, the Nebraska Job Creation and Mainstreet
3 Revitalization Act, the New Markets Job Growth Investment Act, the School
4 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
5 Nebraska Property Tax Incentive Act, the Renewable Chemical Production
6 Tax Credit Act, the Opportunity Scholarships Act, the Nebraska Child Care
7 Contribution Tax Credit Act, and section 77-27,238 and shall execute and
8 forward to the fiduciary, on or before the original due date of the
9 Nebraska fiduciary return, an agreement which states that he or she will
10 file a Nebraska income tax return and pay income tax on all income
11 derived from or connected with sources in this state, and such agreement
12 shall be attached to the Nebraska fiduciary return for such taxable year.

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

29 (6) The Tax Commissioner may allow a nonresident beneficiary to not
30 file a Nebraska income tax return if the nonresident beneficiary's only
31 source of Nebraska income was his or her share of the estate's or trust's

1 income which was derived from or attributable to sources within this
2 state, the nonresident did not file an agreement to file a Nebraska
3 income tax return, and the estate or trust has remitted the amount
4 required by subsection (5) of this section on behalf of such nonresident
5 beneficiary. The amount remitted shall be retained in satisfaction of the
6 Nebraska income tax liability of the nonresident beneficiary.

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

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

18 Sec. 23. Section 77-2734.03, Revised Statutes Cumulative Supplement,
19 2020, is amended to read:

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

27 (b) For taxable years commencing on or after January 1, 1997, any
28 insurer paying a tax on premiums and assessments pursuant to section
29 77-908 or 81-523, any electric cooperative organized under the Joint
30 Public Power Authority Act, or any credit union shall be credited, in the
31 computation of the tax due under the Nebraska Revenue Act of 1967, with

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

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

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

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

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

22 (5) There shall be allowed to corporate taxpayers refundable income
23 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,
24 the Nebraska Advantage Research and Development Act, the Nebraska
25 Property Tax Incentive Act, and the Renewable Chemical Production Tax
26 Credit Act.

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

30 (7) There shall be allowed to corporate taxpayers a nonrefundable
31 income tax credit as provided in 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 Opportunity Scholarships Act, the Nebraska Child Care Contribution Tax
4 Credit Act, and section 77-27,238.

5 Sec. 24. This act becomes operative for all taxable years beginning
6 or deemed to begin on or after January 1, 2022, under the Internal
7 Revenue Code of 1986, as amended.

8 Sec. 25. If any section in this act or any part of any section is
9 declared invalid or unconstitutional, the declaration shall not affect
10 the validity or constitutionality of the remaining portions.

11 Sec. 26. Original sections 77-2715.07, 77-2717, and 77-2734.03,
12 Revised Statutes Cumulative Supplement, 2020, are repealed.