

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 176**

Introduced by Lindstrom, 18.

Read first time January 08, 2021

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2701, 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes
- 3 Cumulative Supplement, 2020; to provide an income tax credit for
- 4 certain agricultural producers; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,  
4 77-27,236, 77-27,238, and 77-27,239 and section 2 of this act shall be  
5 known and may be cited as the Nebraska Revenue Act of 1967.

6 Sec. 2. (1) For taxable years beginning or deemed to begin on or  
7 after January 1, 2022, under the Internal Revenue Code of 1986, as  
8 amended, an agricultural producer who qualifies for the Conservation  
9 Stewardship Program or the Environmental Quality Incentives Program of  
10 the United States Department of Agriculture during the taxable year shall  
11 be allowed a nonrefundable credit against the income tax imposed by the  
12 Nebraska Revenue Act of 1967. The credit shall be equal to two thousand  
13 five hundred dollars.

14 (2) The credit shall be claimed for the taxable year in which the  
15 agricultural producer qualifies for a program described in subsection (1)  
16 of this section. If the agricultural producer cannot fully utilize the  
17 credit for such taxable year, the credit may be carried forward to  
18 subsequent taxable years until fully utilized.

19 (3) For purposes of this section:

20 (a) Agricultural land and horticultural land has the same meaning as  
21 in section 77-1359; and

22 (b) Agricultural producer means any individual, corporation,  
23 partnership, limited liability company, trust, estate, or other entity  
24 that (i) is subject to the income tax imposed by the Nebraska Revenue Act  
25 of 1967 and (ii) is an owner of agricultural land and horticultural land  
26 in this state.

27 Sec. 3. Section 77-2715.07, Revised Statutes Cumulative Supplement,  
28 2020, is amended to read:

29 77-2715.07 (1) There shall be allowed to qualified resident  
30 individuals as a nonrefundable credit against the income tax imposed by  
31 the Nebraska Revenue Act of 1967:

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

3 (b) A credit for taxes paid to another state as provided in section  
4 77-2730.

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

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

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

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

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

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

19 (3) There shall be allowed to all individuals as a nonrefundable  
20 credit against the income tax imposed by the Nebraska Revenue Act of  
21 1967:

22 (a) A credit for personal exemptions allowed under section  
23 77-2716.01;

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

31 (c) A credit for investment in a biodiesel facility as provided in

1 section 77-27,236;

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

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

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

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

9 (h) A credit for agricultural producers as provided in section 2 of  
10 this act.

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

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

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

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

29 (5)(a) For all taxable years beginning on or after January 1, 2007,  
30 and before January 1, 2009, under the Internal Revenue Code of 1986, as  
31 amended, there shall be allowed to each partner, shareholder, member, or

1 beneficiary of a partnership, subchapter S corporation, limited liability  
2 company, or estate or trust a nonrefundable credit against the income tax  
3 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the  
4 partner's, shareholder's, member's, or beneficiary's portion of the  
5 amount of franchise tax paid to the state under sections 77-3801 to  
6 77-3807 by a financial institution.

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

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

21 (6) There shall be allowed to all individuals nonrefundable credits  
22 against the income tax imposed by the Nebraska Revenue Act of 1967 as  
23 provided in section 77-3604 and refundable credits against the income tax  
24 imposed by the Nebraska Revenue Act of 1967 as provided in section  
25 77-3605.

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

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

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

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

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

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

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

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

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

24 Sec. 4. Section 77-2717, Revised Statutes Cumulative Supplement,  
25 2020, is amended to read:

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

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

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

1 in the Nebraska Job Creation and Mainstreet Revitalization Act, the New  
2 Markets Job Growth Investment Act, the School Readiness Tax Credit Act,  
3 the Affordable Housing Tax Credit Act, and section 77-27,238 and section  
4 2 of this act.

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

30 (2) In all instances wherein a fiduciary income tax return is  
31 required under the provisions of the Internal Revenue Code, a Nebraska

1 fiduciary return shall be filed, except that a fiduciary return shall not  
2 be required to be filed regarding a simple trust if all of the trust's  
3 beneficiaries are residents of the State of Nebraska, all of the trust's  
4 income is derived from sources in this state, and the trust has no  
5 federal tax liability. The fiduciary shall be responsible for making the  
6 return for the estate or trust for which he or she acts, whether the  
7 income be taxable to the estate or trust or to the beneficiaries thereof.  
8 The fiduciary shall include in the return a statement of each  
9 beneficiary's distributive share of net income when such income is  
10 taxable to such beneficiaries.

11 (3) The beneficiaries of such estate or trust who are residents of  
12 this state shall include in their income their proportionate share of  
13 such estate's or trust's federal income and shall reduce their Nebraska  
14 tax liability by their proportionate share of the credits as provided in  
15 the Angel Investment Tax Credit Act, the Nebraska Advantage  
16 Microenterprise Tax Credit Act, the Nebraska Advantage Research and  
17 Development Act, the Nebraska Job Creation and Mainstreet Revitalization  
18 Act, the New Markets Job Growth Investment Act, the School Readiness Tax  
19 Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Property  
20 Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, and  
21 section 77-27,238 and section 2 of this act. There shall be allowed to a  
22 beneficiary a refundable income tax credit under the Beginning Farmer Tax  
23 Credit Act for all taxable years beginning or deemed to begin on or after  
24 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

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

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

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

30 (6) The Tax Commissioner may allow a nonresident beneficiary to not  
31 file a Nebraska income tax return if the nonresident beneficiary's only

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

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

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

19 Sec. 5. Section 77-2734.03, Revised Statutes Cumulative Supplement,  
20 2020, is amended to read:

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

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

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

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

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

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

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

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

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

31 (7) There shall be allowed to corporate taxpayers a nonrefundable

1 income tax credit as provided in the Nebraska Job Creation and Mainstreet  
2 Revitalization Act, the New Markets Job Growth Investment Act, the School  
3 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and  
4 section 77-27,238 and section 2 of this act.

5 Sec. 6. Original sections 77-2701, 77-2715.07, 77-2717, and  
6 77-2734.03, Revised Statutes Cumulative Supplement, 2020, are repealed.