

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 26

Introduced by Krist, 10.

Read first time January 08, 2015

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 49-801.01, 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes
3 Cumulative Supplement, 2014; to adopt the Choice for the Advancement
4 of Nebraska Children in Education Act; to provide for tax credits;
5 to harmonize provisions; to provide an operative date; to provide
6 for severability; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 13 of this act shall be known and may be
2 cited as the Choice for the Advancement of Nebraska Children in Education
3 Act.

4 Sec. 2. The Legislature finds that:

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

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

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

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

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

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

26 Sec. 3. For purposes of the Choice for the Advancement of Nebraska
27 Children in Education Act:

28 (1) Department means the Department of Revenue;

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

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

2 (a) Is a dependent member of a household for which the gross income
3 for the most recently concluded calendar year before the student receives
4 an education scholarship pursuant to the act does not exceed two times
5 the income indicated in the income eligibility guidelines for reduced
6 price meals under the National School Lunch Program in 7 C.F.R. part 210
7 as published most recently in the Federal Register by the United States
8 Department of Agriculture;

9 (b) Is or may be enrolled as a full-time student in any of grades
10 kindergarten through twelve in a qualified school; and

11 (c)(i) Is receiving an education scholarship for the first time and
12 is (A) entering kindergarten or ninth grade in a qualified school or (B)
13 transferring from a public school to a qualified school and is entering
14 any of grades kindergarten through twelve, (ii) has previously received a
15 first-time education scholarship and is continuing education at a
16 qualified school until such student graduates from high school or reaches
17 twenty-one years of age, whichever comes first, or (iii) is the sibling
18 of a student who is receiving an education scholarship and resides in the
19 same household as the sibling;

20 (4) Qualified school means any nongovernmental, privately operated
21 elementary or secondary school located in this state that (a) is operated
22 not for profit, (b) does not discriminate on the basis of race, color, or
23 national origin, (c) complies with all health and life safety laws or
24 codes that apply to privately operated schools, and (d) fulfills the
25 applicable accreditation or approval requirements established by the
26 State Board of Education pursuant to section 79-318;

27 (5) Scholarship-granting organization means a charitable
28 organization in this state that (a) is exempt from federal income
29 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of
30 1986, as amended and (b) is certified pursuant to section 4 of this act
31 to provide tax-credit-supported education scholarships to eligible

1 students to assist them in attending qualified schools; and

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

4 Sec. 4. (1) An organization may apply to the department to become
5 certified as a scholarship-granting organization under the Choice for the
6 Advancement of Nebraska Children in Education Act. An organization shall
7 obtain such certification prior to providing any education scholarships
8 to eligible students under the act. The applicant shall provide the
9 department with sufficient information to show:

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

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

14 (c) That the applicant will allocate (i) at least ninety percent of
15 its revenue for education scholarships in accordance with section 10 of
16 this act so long as the limit of the aggregate amount of tax credits
17 provided in accordance with subsection (3) of section 9 of this act does
18 not exceed twenty million dollars or (ii) at least ninety-five percent of
19 its revenue for education scholarships in accordance with section 10 of
20 this act so long as the limit of the aggregate amount of tax credits
21 provided in accordance with subsection (3) of section 9 of this act
22 exceeds twenty million dollars; and

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 (2) If the applicant meets the requirements of this section, the
27 department shall certify it as a scholarship-granting organization for
28 tax-credit purposes under the Choice for the Advancement of Nebraska
29 Children in Education Act. Such certification is subject to revocation by
30 the department if the scholarship-granting organization subsequently
31 fails to fulfill the requirements of this section.

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

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

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

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

20 (5) The tax credit allowed under this section is subject to section
21 9 of this act.

22 Sec. 6. (1) Any partnership, any limited liability company, and any
23 corporation having an election in effect under subchapter S of the
24 Internal Revenue Code of 1986, as amended, which is carrying on any trade
25 or business for which deductions would be allowed under section 162 of
26 the Internal Revenue Code of 1986, as amended, or carrying on any rental
27 activity, which makes one or more cash contributions to one or more
28 scholarship-granting organizations during a tax year shall be eligible
29 for a credit against the income tax due under the Nebraska Revenue Act of
30 1967. The amount of the credit shall be sixty percent of the total amount
31 of such contributions made during the tax year. The credit shall be

1 attributed to each partner, member, or shareholder in the same proportion
2 used to report the partnership's, limited liability company's, or
3 subchapter S corporation's income or loss for income tax purposes.

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

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

13 (4) The tax credit allowed under this section is subject to section
14 9 of this act.

15 Sec. 7. (1) An estate or trust which makes one or more cash
16 contributions to one or more scholarship-granting organizations during a
17 tax year shall be eligible for a credit against the income tax due under
18 the Nebraska Revenue Act of 1967. The amount of the credit shall be sixty
19 percent of the total amount of such contributions made during the tax
20 year. Any credit not used by the estate or trust may be attributed to
21 each beneficiary of the estate or trust in the same proportion used to
22 report the beneficiary's income from the estate or trust for income tax
23 purposes.

24 (2) The tax credit allowed under this section shall not exceed the
25 taxpayer's income tax liability for the tax year, but any amount that
26 would otherwise have qualified for the credit but for this limitation may
27 be carried forward and applied against the taxpayer's income tax
28 liability for the next five years immediately following the tax year in
29 which the credit is first allowed. The tax credit cannot be carried back.

30 (3) The taxpayer may not designate all or any part of the
31 contribution to a scholarship-granting organization for the benefit of

1 any eligible student specifically identified by the taxpayer.

2 (4) The tax credit allowed under this section is subject to section
3 9 of this act.

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

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

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

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

21 Sec. 9. (1) Prior to making a contribution to a scholarship-
22 granting organization, any taxpayer desiring to claim a tax credit
23 allowed under the Choice for the Advancement of Nebraska Children in
24 Education Act shall notify the scholarship-granting organization of the
25 taxpayer's intent to make a contribution and the amount thereof. Upon
26 receiving each such notification of intent to make a contribution, the
27 scholarship-granting organization shall notify the department of the
28 intent to claim a tax credit allowed under the act. The department shall
29 consider the notification pursuant to subsection (3) of this section. If
30 the department determines that the claim of a tax credit in the amount
31 indicated in the notification would exceed the limits specified in

1 subsection (3) of this section, the department shall notify the
2 scholarship-granting organization of its determination within thirty days
3 after receipt of the notification and the scholarship-granting
4 organization shall promptly notify the taxpayer of the department's
5 determination that the tax credit for the amount in the notice is not
6 available. If an amount less than the amount indicated in the notice is
7 available for a tax credit, the department shall notify the scholarship-
8 granting organization of the available amount and the scholarship-
9 granting organization shall promptly notify the taxpayer of the available
10 amount.

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

27 (3) The department shall consider requests for tax credits in the
28 order in which they are received to ascertain whether they are within the
29 limits provided in this subsection. The aggregate amount of tax credits
30 shall not exceed ten million dollars for calendar year 2016. In the
31 calendar year 2017 and each year thereafter, the annual limit is the

1 annual limit in the prior calendar year. However, in any calendar year
2 when the aggregate tax credit amount for the prior calendar year is equal
3 to or greater than ninety percent of the annual limit applicable to that
4 calendar year, the annual limit shall increase by twenty-five percent.
5 The State Department of Education and the Department of Revenue shall
6 publish on their respective web sites information identifying the annual
7 limit when it is increased pursuant to this subsection. Once credits have
8 reached the designated annual limit for any calendar year, no additional
9 credits shall be allowed for such calendar year. Credits shall be
10 prorated among the notifications received on the day the annual limit is
11 exceeded.

12 Sec. 10. In order for a scholarship-granting organization to remain
13 certified under the Choice for the Advancement of Nebraska Children in
14 Education Act, the scholarship-granting organization must allocate (1) at
15 least ninety percent of its revenue for education scholarships and no
16 more than ten percent of its revenue shall be used or reserved for
17 administrative costs of the scholarship-granting organization so long as
18 the limit of the aggregate amount of tax credits provided in accordance
19 with subsection (3) of section 9 of this act does not exceed twenty
20 million dollars or (2) at least ninety-five percent of its revenue for
21 education scholarships and no more than five percent of its revenue shall
22 be used or reserved for administrative costs of the scholarship-granting
23 organization so long as the limit of the aggregate amount of tax credits
24 provided in accordance with subsection (3) of section 9 of this act
25 exceeds twenty million dollars. For purposes of this requirement, revenue
26 is allocated when it is expended or otherwise irrevocably encumbered for
27 expenditure. The percentage of funds allocated for education scholarships
28 shall be measured as a monthly average over the most recent twenty-four-
29 month period or, for a scholarship-granting organization that has been
30 certified for less than twenty-four months, over the period of time that
31 the scholarship-granting organization has been certified.

1 Sec. 11. Each scholarship-granting organization shall annually
2 submit to the department no later than December 1 of each year an audited
3 financial information report for its most recent fiscal year certified by
4 an independent public accountant. The scholarship-granting organization
5 shall include with such report a summary description of its policies and
6 procedures for awarding education scholarships and any other information
7 requested by the department.

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

16 Sec. 13. The department may adopt and promulgate rules and
17 regulations to carry out the Choice for the Advancement of Nebraska
18 Children in Education Act.

19 Sec. 14. Section 49-801.01, Revised Statutes Cumulative Supplement,
20 2014, is amended to read:

21 49-801.01 Except as provided by Article VIII, section 1B, of the
22 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
23 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
24 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
25 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
26 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 3, 4, and 6
27 of this act, any reference to the Internal Revenue Code refers to the
28 Internal Revenue Code of 1986 as it exists on April 11, 2014.

29 Sec. 15. Section 77-2715.07, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 77-2715.07 (1) There shall be allowed to qualified resident

1 individuals as a nonrefundable credit against the income tax imposed by
2 the Nebraska Revenue Act of 1967:

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

5 (b) A credit for taxes paid to another state as provided in section
6 77-2730.

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

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

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;

23 (c) A refundable credit as provided in section 77-5209.01 for
24 individuals who qualify for an income tax credit as a qualified beginning
25 farmer or livestock producer under the Beginning Farmer Tax Credit Act
26 for all taxable years beginning or deemed to begin on or after January 1,
27 2006, under the Internal Revenue Code of 1986, as amended;

28 (d) A refundable credit for individuals who qualify for an income
29 tax credit under the Angel Investment Tax Credit Act, the Nebraska
30 Advantage Microenterprise Tax Credit Act, or the Nebraska Advantage
31 Research and Development Act; and

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

4 (3) There shall be allowed to all individuals as a nonrefundable
5 credit against the income tax imposed by the Nebraska Revenue Act of
6 1967:

7 (a) A credit for personal exemptions allowed under section
8 77-2716.01;

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

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

18 (d) A credit as provided in the New Markets Job Growth Investment
19 Act; and

20 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
21 Revitalization Act; and -

22 (f) A credit as provided in the Choice for the Advancement of
23 Nebraska Children in Education Act.

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

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

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

31 (c) A refundable credit for individuals who qualify for an income

1 tax credit as an owner of agricultural assets under the Beginning Farmer
2 Tax Credit Act for all taxable years beginning or deemed to begin on or
3 after January 1, 2009, under the Internal Revenue Code of 1986, as
4 amended. The credit allowed for each partner, shareholder, member, or
5 beneficiary of a partnership, corporation, limited liability company, or
6 estate or trust qualifying for an income tax credit as an owner of
7 agricultural assets under the Beginning Farmer Tax Credit Act shall be
8 equal to the partner's, shareholder's, member's, or beneficiary's portion
9 of the amount of tax credit distributed pursuant to subsection (4) of
10 section 77-5211.

11 (5)(a) For all taxable years beginning on or after January 1, 2007,
12 and before January 1, 2009, under the Internal Revenue Code of 1986, as
13 amended, there shall be allowed to each partner, shareholder, member, or
14 beneficiary of a partnership, subchapter S corporation, limited liability
15 company, or estate or trust a nonrefundable credit against the income tax
16 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
17 partner's, shareholder's, member's, or beneficiary's portion of the
18 amount of franchise tax paid to the state under sections 77-3801 to
19 77-3807 by a financial institution.

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

28 (c) Each partner, shareholder, member, or beneficiary shall report
29 his or her share of the credit in the same manner and proportion as he or
30 she reports the partnership, subchapter S corporation, limited liability
31 company, or estate or trust income. If any partner, shareholder, member,

1 or beneficiary cannot fully utilize the credit for that year, the credit
2 may not be carried forward or back.

3 Sec. 16. Section 77-2717, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
6 before January 1, 2014, the tax imposed on all resident estates and
7 trusts shall be a percentage of the federal taxable income of such
8 estates and trusts as modified in section 77-2716, plus a percentage of
9 the federal alternative minimum tax and the federal tax on premature or
10 lump-sum distributions from qualified retirement plans. The additional
11 taxes shall be recomputed by (A) substituting Nebraska taxable income for
12 federal taxable income, (B) calculating what the federal alternative
13 minimum tax would be on Nebraska taxable income and adjusting such
14 calculations for any items which are reflected differently in the
15 determination of federal taxable income, and (C) applying Nebraska rates
16 to the result. The federal credit for prior year minimum tax, after the
17 recomputations required by the Nebraska Revenue Act of 1967, and the
18 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
19 and the Nebraska Advantage Research and Development Act shall be allowed
20 as a reduction in the income tax due. A refundable income tax credit
21 shall be allowed for all resident estates and trusts under the Angel
22 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
23 Credit Act, and the Nebraska Advantage Research and Development Act. A
24 nonrefundable income tax credit shall be allowed for all resident estates
25 and trusts as provided in the New Markets Job Growth Investment Act.

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

1 income for federal taxable income and applying Nebraska rates to the
2 result. The credits provided in the Nebraska Advantage Microenterprise
3 Tax Credit Act and the Nebraska Advantage Research and Development Act
4 shall be allowed as a reduction in the income tax due. A refundable
5 income tax credit shall be allowed for all resident estates and trusts
6 under the Angel Investment Tax Credit Act, the Nebraska Advantage
7 Microenterprise Tax Credit Act, and the Nebraska Advantage Research and
8 Development Act. A nonrefundable income tax credit shall be allowed for
9 all resident estates and trusts as provided in the Nebraska Job Creation
10 and Mainstreet Revitalization Act, ~~and~~ the New Markets Job Growth
11 Investment Act, and the Choice for the Advancement of Nebraska Children
12 in Education Act.

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

1 income tax credit shall be allowed for all nonresident estates and trusts
2 as provided in the Nebraska Job Creation and Mainstreet Revitalization
3 Act, ~~and~~ the New Markets Job Growth Investment Act, and the Choice for
4 the Advancement of Nebraska Children in Education Act.

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

17 (3) The beneficiaries of such estate or trust who are residents of
18 this state shall include in their income their proportionate share of
19 such estate's or trust's federal income and shall reduce their Nebraska
20 tax liability by their proportionate share of the credits as provided in
21 the Angel Investment Tax Credit Act, the Nebraska Advantage
22 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
23 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
24 Act, ~~and~~ the New Markets Job Growth Investment Act, and the Choice for
25 the Advancement of Nebraska Children in Education Act. There shall be
26 allowed to a beneficiary a refundable income tax credit under the
27 Beginning Farmer Tax Credit Act for all taxable years beginning or deemed
28 to begin on or after January 1, 2001, under the Internal Revenue Code of
29 1986, as amended.

30 (4) If any beneficiary of such estate or trust is a nonresident
31 during any part of the estate's or trust's taxable year, he or she shall

1 file a Nebraska income tax return which shall include (a) in Nebraska
2 adjusted gross income that portion of the estate's or trust's Nebraska
3 income, as determined under sections 77-2724 and 77-2725, allocable to
4 his or her interest in the estate or trust and (b) a reduction of the
5 Nebraska tax liability by his or her proportionate share of the credits
6 as provided in the Angel Investment Tax Credit Act, the Nebraska
7 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
8 and Development Act, the Nebraska Job Creation and Mainstreet
9 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and
10 the Choice for the Advancement of Nebraska Children in Education Act and
11 shall execute and forward to the fiduciary, on or before the original due
12 date of the Nebraska fiduciary return, an agreement which states that he
13 or she will file a Nebraska income tax return and pay income tax on all
14 income derived from or connected with sources in this state, and such
15 agreement shall be attached to the Nebraska fiduciary return for such
16 taxable year.

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

1 against the Nebraska income tax liability of the beneficiary.

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

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

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

22 Sec. 17. Section 77-2734.03, Revised Statutes Cumulative Supplement,
23 2014, is amended to read:

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

31 (b) For taxable years commencing on or after January 1, 1997, any

1 insurer paying a tax on premiums and assessments pursuant to section
2 77-908 or 81-523, any electric cooperative organized under the Joint
3 Public Power Authority Act, or any credit union shall be credited, in the
4 computation of the tax due under the Nebraska Revenue Act of 1967, with
5 the amount paid during the taxable year as (i) taxes on such premiums and
6 assessments included as Nebraska premiums and assessments under section
7 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

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

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

1 (7) There shall be allowed to corporate taxpayers a nonrefundable
2 income tax credit as provided in the Nebraska Job Creation and Mainstreet
3 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and
4 the Choice for the Advancement of Nebraska Children in Education Act.

5 Sec. 18. This act becomes operative for all taxable years beginning
6 or deemed to begin on or after January 1, 2016, under the Internal
7 Revenue Code of 1986, as amended.

8 Sec. 19. 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. 20. Original sections 49-801.01, 77-2715.07, 77-2717, and
12 77-2734.03, Revised Statutes Cumulative Supplement, 2014, are repealed.