

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 391

Introduced by Murman, 38.

Read first time January 17, 2025

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2716, Revised Statutes Cumulative Supplement, 2024; to adopt the
- 3 Give to Enable Scholarship Act; to provide for certain income tax
- 4 adjustments; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 5 of this act shall be known and may be
2 cited as the Give to Enable Scholarship Act.

3 **Sec. 2.** For purposes of the Give to Enable Scholarship Act:

4 (1) Account has the same meaning as in section 77-1401;

5 (2) Contribution means a donation which is made for the purpose of
6 providing a source of funding for the program;

7 (3) Program means the Give to Enable Scholarship Program created in
8 section 4 of this act;

9 (4) Qualified disability expenses has the same meaning as in section
10 77-1401; and

11 (5) Qualified individual means an individual with a disability as
12 defined in section 77-1401 who does not have an account at the time he or
13 she is approved to become a participant in the program pursuant to
14 section 4 of this act.

15 **Sec. 3.** There is hereby established in the state treasury a trust
16 fund to be known as the Give to Enable Scholarship Fund. The fund shall
17 be administered by the State Treasurer. The State Treasurer shall accept
18 contributions from any private individual or private entity and shall
19 credit all such contributions received to the Give to Enable Scholarship
20 Fund for the purpose of providing an ongoing source of funding for the
21 program. No General Funds shall be transferred to the Give to Enable
22 Scholarship Fund. Any money in the fund available for investment shall be
23 invested by the state investment officer pursuant to the Nebraska Capital
24 Expansion Act and the Nebraska State Funds Investment Act. No portion of
25 the principal of the fund shall be expended for any purpose except
26 investment pursuant to this section.

27 **Sec. 4.** (1) The Give to Enable Scholarship Program is created. The
28 program shall begin on January 1, 2026, and shall be implemented and
29 administered by the State Treasurer. The purpose of the program is to
30 promote access to accounts by establishing accounts using distributions
31 from the Give to Enable Scholarship Fund. Such accounts may then be used

1 to pay the qualified disability expenses of qualified individuals.

2 (2) Beginning January 1, 2026, any qualified individual shall be
3 eligible to participate in the Give to Enable Scholarship Program. In
4 order to participate in the program, a qualified individual shall submit
5 an application to the State Treasurer on forms prescribed by the State
6 Treasurer. The State Treasurer shall accept applications from January 1
7 to June 1 of each year beginning in 2026. The application shall include:

8 (a) Information necessary to certify the applicant's status as a
9 qualified individual;

10 (b) The applicant's personal information necessary to establish an
11 account; and

12 (c) Any other information required by the State Treasurer.

13 (3) If the State Treasurer determines that the applicant qualifies
14 to have an account established under the program, the State Treasurer
15 shall approve the application and shall notify the applicant of the
16 approval. The State Treasurer may approve as many applications as funding
17 for the program allows for each calendar year.

18 (4) A qualified individual whose application is approved under this
19 section shall have an account established for such individual in
20 accordance with sections 77-1401 to 77-1409. Such account shall be
21 established on or before April 1 of the year following the year the
22 application is approved and shall be funded with no less than the minimum
23 amount required to open an account or such greater amount as determined
24 by the State Treasurer in his or her sole discretion.

25 **Sec. 5.** The State Treasurer may adopt and promulgate rules and
26 regulations to carry out the Give to Enable Scholarship Act.

27 **Sec. 6.** Section 77-2716, Revised Statutes Cumulative Supplement,
28 2024, is amended to read:

29 77-2716 (1) The following adjustments to federal adjusted gross
30 income or, for corporations and fiduciaries, federal taxable income shall
31 be made for interest or dividends received:

1 (a)(i) There shall be subtracted interest or dividends received by
2 the owner of obligations of the United States and its territories and
3 possessions or of any authority, commission, or instrumentality of the
4 United States to the extent includable in gross income for federal income
5 tax purposes but exempt from state income taxes under the laws of the
6 United States; and

7 (ii) There shall be subtracted interest received by the owner of
8 obligations of the State of Nebraska or its political subdivisions or
9 authorities which are Build America Bonds to the extent includable in
10 gross income for federal income tax purposes;

11 (b) There shall be subtracted that portion of the total dividends
12 and other income received from a regulated investment company which is
13 attributable to obligations described in subdivision (a) of this
14 subsection as reported to the recipient by the regulated investment
15 company;

16 (c) There shall be added interest or dividends received by the owner
17 of obligations of the District of Columbia, other states of the United
18 States, or their political subdivisions, authorities, commissions, or
19 instrumentalities to the extent excluded in the computation of gross
20 income for federal income tax purposes except that such interest or
21 dividends shall not be added if received by a corporation which is a
22 regulated investment company;

23 (d) There shall be added that portion of the total dividends and
24 other income received from a regulated investment company which is
25 attributable to obligations described in subdivision (c) of this
26 subsection and excluded for federal income tax purposes as reported to
27 the recipient by the regulated investment company; and

28 (e)(i) Any amount subtracted under this subsection shall be reduced
29 by any interest on indebtedness incurred to carry the obligations or
30 securities described in this subsection or the investment in the
31 regulated investment company and by any expenses incurred in the

1 production of interest or dividend income described in this subsection to
2 the extent that such expenses, including amortizable bond premiums, are
3 deductible in determining federal taxable income.

4 (ii) Any amount added under this subsection shall be reduced by any
5 expenses incurred in the production of such income to the extent
6 disallowed in the computation of federal taxable income.

7 (2) There shall be allowed a net operating loss derived from or
8 connected with Nebraska sources computed under rules and regulations
9 adopted and promulgated by the Tax Commissioner consistent, to the extent
10 possible under the Nebraska Revenue Act of 1967, with the laws of the
11 United States. For a resident individual, estate, or trust, the net
12 operating loss computed on the federal income tax return shall be
13 adjusted by the modifications contained in this section. For a
14 nonresident individual, estate, or trust or for a partial-year resident
15 individual, the net operating loss computed on the federal return shall
16 be adjusted by the modifications contained in this section and any
17 carryovers or carrybacks shall be limited to the portion of the loss
18 derived from or connected with Nebraska sources.

19 (3) There shall be subtracted from federal adjusted gross income for
20 all taxable years beginning on or after January 1, 1987, the amount of
21 any state income tax refund to the extent such refund was deducted under
22 the Internal Revenue Code, was not allowed in the computation of the tax
23 due under the Nebraska Revenue Act of 1967, and is included in federal
24 adjusted gross income.

25 (4) Federal adjusted gross income, or, for a fiduciary, federal
26 taxable income shall be modified to exclude the portion of the income or
27 loss received from a small business corporation with an election in
28 effect under subchapter S of the Internal Revenue Code or from a limited
29 liability company organized pursuant to the Nebraska Uniform Limited
30 Liability Company Act that is not derived from or connected with Nebraska
31 sources as determined in section 77-2734.01.

1 (5) There shall be subtracted from federal adjusted gross income or,
2 for corporations and fiduciaries, federal taxable income dividends
3 received or deemed to be received from corporations which are not subject
4 to the Internal Revenue Code.

5 (6) There shall be subtracted from federal taxable income a portion
6 of the income earned by a corporation subject to the Internal Revenue
7 Code of 1986 that is actually taxed by a foreign country or one of its
8 political subdivisions at a rate in excess of the maximum federal tax
9 rate for corporations. The taxpayer may make the computation for each
10 foreign country or for groups of foreign countries. The portion of the
11 taxes that may be deducted shall be computed in the following manner:

12 (a) The amount of federal taxable income from operations within a
13 foreign taxing jurisdiction shall be reduced by the amount of taxes
14 actually paid to the foreign jurisdiction that are not deductible solely
15 because the foreign tax credit was elected on the federal income tax
16 return;

17 (b) The amount of after-tax income shall be divided by one minus the
18 maximum tax rate for corporations in the Internal Revenue Code; and

19 (c) The result of the calculation in subdivision (b) of this
20 subsection shall be subtracted from the amount of federal taxable income
21 used in subdivision (a) of this subsection. The result of such
22 calculation, if greater than zero, shall be subtracted from federal
23 taxable income.

24 (7) Federal adjusted gross income shall be modified to exclude any
25 amount repaid by the taxpayer for which a reduction in federal tax is
26 allowed under section 1341(a)(5) of the Internal Revenue Code.

27 (8)(a) Federal adjusted gross income or, for corporations and
28 fiduciaries, federal taxable income shall be reduced, to the extent
29 included, by income from interest, earnings, and state contributions
30 received from the Nebraska educational savings plan trust created in
31 sections 85-1801 to 85-1817 and any account established under the

1 achieving a better life experience program as provided in sections
2 77-1401 to 77-1409.

3 (b) Federal adjusted gross income or, for corporations and
4 fiduciaries, federal taxable income shall be reduced by any contributions
5 as a participant in the Nebraska educational savings plan trust, ~~any or~~
6 contributions to an account established under the achieving a better life
7 experience program made for the benefit of a beneficiary as provided in
8 sections 77-1401 to 77-1409, or any contributions to the Give to Enable
9 Scholarship Fund as provided in the Give to Enable Scholarship Act, to
10 the extent not deducted for federal income tax purposes, but not to
11 exceed five thousand dollars per married filing separate return or ten
12 thousand dollars for any other return. With respect to a qualified
13 rollover within the meaning of section 529 of the Internal Revenue Code
14 from another state's plan, any interest, earnings, and state
15 contributions received from the other state's educational savings plan
16 which is qualified under section 529 of the code shall qualify for the
17 reduction provided in this subdivision. For contributions by a custodian
18 of a custodial account including rollovers from another custodial
19 account, the reduction shall only apply to funds added to the custodial
20 account after January 1, 2014.

21 (c) For taxable years beginning or deemed to begin on or after
22 January 1, 2021, under the Internal Revenue Code of 1986, as amended,
23 federal adjusted gross income shall be reduced, to the extent included in
24 the adjusted gross income of an individual, by the amount of any
25 contribution made by the individual's employer into an account under the
26 Nebraska educational savings plan trust owned by the individual, not to
27 exceed five thousand dollars per married filing separate return or ten
28 thousand dollars for any other return.

29 (d) Federal adjusted gross income or, for corporations and
30 fiduciaries, federal taxable income shall be increased by:

31 (i) The amount resulting from the cancellation of a participation

1 agreement refunded to the taxpayer as a participant in the Nebraska
2 educational savings plan trust to the extent previously deducted under
3 subdivision (8)(b) of this section; and

4 (ii) The amount of any withdrawals by the owner of an account
5 established under the achieving a better life experience program as
6 provided in sections 77-1401 to 77-1409 for nonqualified expenses to the
7 extent previously deducted under subdivision (8)(b) of this section.

8 (9)(a) For income tax returns filed after September 10, 2001, for
9 taxable years beginning or deemed to begin before January 1, 2006, under
10 the Internal Revenue Code of 1986, as amended, federal adjusted gross
11 income or, for corporations and fiduciaries, federal taxable income shall
12 be increased by eighty-five percent of any amount of any federal bonus
13 depreciation received under the federal Job Creation and Worker
14 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
15 under section 168(k) or section 1400L of the Internal Revenue Code of
16 1986, as amended, for assets placed in service after September 10, 2001,
17 and before December 31, 2005.

18 (b) For a partnership, limited liability company, cooperative,
19 including any cooperative exempt from income taxes under section 521 of
20 the Internal Revenue Code of 1986, as amended, limited cooperative
21 association, subchapter S corporation, or joint venture, the increase
22 shall be distributed to the partners, members, shareholders, patrons, or
23 beneficiaries in the same manner as income is distributed for use against
24 their income tax liabilities.

25 (c) For a corporation with a unitary business having activity both
26 inside and outside the state, the increase shall be apportioned to
27 Nebraska in the same manner as income is apportioned to the state by
28 section 77-2734.05.

29 (d) The amount of bonus depreciation added to federal adjusted gross
30 income or, for corporations and fiduciaries, federal taxable income by
31 this subsection shall be subtracted in a later taxable year. Twenty

1 percent of the total amount of bonus depreciation added back by this
2 subsection for tax years beginning or deemed to begin before January 1,
3 2003, under the Internal Revenue Code of 1986, as amended, may be
4 subtracted in the first taxable year beginning or deemed to begin on or
5 after January 1, 2005, under the Internal Revenue Code of 1986, as
6 amended, and twenty percent in each of the next four following taxable
7 years. Twenty percent of the total amount of bonus depreciation added
8 back by this subsection for tax years beginning or deemed to begin on or
9 after January 1, 2003, may be subtracted in the first taxable year
10 beginning or deemed to begin on or after January 1, 2006, under the
11 Internal Revenue Code of 1986, as amended, and twenty percent in each of
12 the next four following taxable years.

13 (10) For taxable years beginning or deemed to begin on or after
14 January 1, 2003, and before January 1, 2006, under the Internal Revenue
15 Code of 1986, as amended, federal adjusted gross income or, for
16 corporations and fiduciaries, federal taxable income shall be increased
17 by the amount of any capital investment that is expensed under section
18 179 of the Internal Revenue Code of 1986, as amended, that is in excess
19 of twenty-five thousand dollars that is allowed under the federal Jobs
20 and Growth Tax Act of 2003. Twenty percent of the total amount of
21 expensing added back by this subsection for tax years beginning or deemed
22 to begin on or after January 1, 2003, may be subtracted in the first
23 taxable year beginning or deemed to begin on or after January 1, 2006,
24 under the Internal Revenue Code of 1986, as amended, and twenty percent
25 in each of the next four following tax years.

26 (11)(a) For taxable years beginning or deemed to begin before
27 January 1, 2018, under the Internal Revenue Code of 1986, as amended,
28 federal adjusted gross income shall be reduced by contributions, up to
29 two thousand dollars per married filing jointly return or one thousand
30 dollars for any other return, and any investment earnings made as a
31 participant in the Nebraska long-term care savings plan under the Long-

1 Term Care Savings Plan Act, to the extent not deducted for federal income
2 tax purposes.

3 (b) For taxable years beginning or deemed to begin before January 1,
4 2018, under the Internal Revenue Code of 1986, as amended, federal
5 adjusted gross income shall be increased by the withdrawals made as a
6 participant in the Nebraska long-term care savings plan under the act by
7 a person who is not a qualified individual or for any reason other than
8 transfer of funds to a spouse, long-term care expenses, long-term care
9 insurance premiums, or death of the participant, including withdrawals
10 made by reason of cancellation of the participation agreement, to the
11 extent previously deducted as a contribution or as investment earnings.

12 (12) There shall be added to federal adjusted gross income for
13 individuals, estates, and trusts any amount taken as a credit for
14 franchise tax paid by a financial institution under sections 77-3801 to
15 77-3807 as allowed by subsection (5) of section 77-2715.07.

16 (13)(a) For taxable years beginning or deemed to begin on or after
17 January 1, 2015, and before January 1, 2024, under the Internal Revenue
18 Code of 1986, as amended, federal adjusted gross income shall be reduced
19 by the amount received as benefits under the federal Social Security Act
20 which are included in the federal adjusted gross income if:

21 (i) For taxpayers filing a married filing joint return, federal
22 adjusted gross income is fifty-eight thousand dollars or less; or

23 (ii) For taxpayers filing any other return, federal adjusted gross
24 income is forty-three thousand dollars or less.

25 (b) For taxable years beginning or deemed to begin on or after
26 January 1, 2020, and before January 1, 2024, under the Internal Revenue
27 Code of 1986, as amended, the Tax Commissioner shall adjust the dollar
28 amounts provided in subdivisions (13)(a)(i) and (ii) of this section by
29 the same percentage used to adjust individual income tax brackets under
30 subsection (3) of section 77-2715.03.

31 (c) For taxable years beginning or deemed to begin on or after

1 January 1, 2021, and before January 1, 2024, under the Internal Revenue
2 Code of 1986, as amended, a taxpayer may claim the reduction to federal
3 adjusted gross income allowed under this subsection or the reduction to
4 federal adjusted gross income allowed under subsection (14) of this
5 section, whichever provides the greater reduction.

6 (14)(a) For taxable years beginning or deemed to begin on or after
7 January 1, 2021, under the Internal Revenue Code of 1986, as amended,
8 federal adjusted gross income shall be reduced by a percentage of the
9 social security benefits that are received and included in federal
10 adjusted gross income. The pertinent percentage shall be:

11 (i) Five percent for taxable years beginning or deemed to begin on
12 or after January 1, 2021, and before January 1, 2022, under the Internal
13 Revenue Code of 1986, as amended;

14 (ii) Forty percent for taxable years beginning or deemed to begin on
15 or after January 1, 2022, and before January 1, 2023, under the Internal
16 Revenue Code of 1986, as amended;

17 (iii) Sixty percent for taxable years beginning or deemed to begin
18 on or after January 1, 2023, and before January 1, 2024, under the
19 Internal Revenue Code of 1986, as amended; and

20 (iv) One hundred percent for taxable years beginning or deemed to
21 begin on or after January 1, 2024, under the Internal Revenue Code of
22 1986, as amended.

23 (b) For purposes of this subsection, social security benefits means
24 benefits received under the federal Social Security Act.

25 (c) For taxable years beginning or deemed to begin on or after
26 January 1, 2021, and before January 1, 2024, under the Internal Revenue
27 Code of 1986, as amended, a taxpayer may claim the reduction to federal
28 adjusted gross income allowed under this subsection or the reduction to
29 federal adjusted gross income allowed under subsection (13) of this
30 section, whichever provides the greater reduction.

31 (15)(a) For taxable years beginning or deemed to begin on or after

1 January 1, 2015, and before January 1, 2022, under the Internal Revenue
2 Code of 1986, as amended, an individual may make a one-time election
3 within two calendar years after the date of his or her retirement from
4 the military to exclude income received as a military retirement benefit
5 by the individual to the extent included in federal adjusted gross income
6 and as provided in this subdivision. The individual may elect to exclude
7 forty percent of his or her military retirement benefit income for seven
8 consecutive taxable years beginning with the year in which the election
9 is made or may elect to exclude fifteen percent of his or her military
10 retirement benefit income for all taxable years beginning with the year
11 in which he or she turns sixty-seven years of age.

12 (b) For taxable years beginning or deemed to begin on or after
13 January 1, 2022, under the Internal Revenue Code of 1986, as amended, an
14 individual may exclude one hundred percent of the military retirement
15 benefit income received by such individual to the extent included in
16 federal adjusted gross income.

17 (c) For purposes of this subsection, military retirement benefit
18 means retirement benefits that are periodic payments attributable to
19 service in the uniformed services of the United States for personal
20 services performed by an individual prior to his or her retirement. The
21 term includes retirement benefits described in this subdivision that are
22 reported to the individual on either:

23 (i) An Internal Revenue Service Form 1099-R received from the United
24 States Department of Defense; or

25 (ii) An Internal Revenue Service Form 1099-R received from the
26 United States Office of Personnel Management.

27 (16) For taxable years beginning or deemed to begin on or after
28 January 1, 2021, under the Internal Revenue Code of 1986, as amended,
29 federal adjusted gross income shall be reduced by the amount received as
30 a Segal AmeriCorps Education Award, to the extent such amount is included
31 in federal adjusted gross income.

1 (17) For taxable years beginning or deemed to begin on or after
2 January 1, 2022, under the Internal Revenue Code of 1986, as amended,
3 federal adjusted gross income shall be reduced by the amount received by
4 or on behalf of a firefighter for cancer benefits under the Firefighter
5 Cancer Benefits Act to the extent included in federal adjusted gross
6 income.

7 (18) There shall be subtracted from the federal adjusted gross
8 income of individuals any amount received by the individual as student
9 loan repayment assistance under the Teach in Nebraska Today Act, to the
10 extent such amount is included in federal adjusted gross income.

11 (19) For taxable years beginning or deemed to begin on or after
12 January 1, 2023, under the Internal Revenue Code of 1986, as amended, a
13 retired individual who was employed full time as a firefighter or
14 certified law enforcement officer for at least twenty years and who is at
15 least sixty years of age as of the end of the taxable year may reduce his
16 or her federal adjusted gross income by the amount of health insurance
17 premiums paid by such individual during the taxable year, to the extent
18 such premiums were not already deducted in determining the individual's
19 federal adjusted gross income.

20 (20) For taxable years beginning or deemed to begin on or after
21 January 1, 2024, under the Internal Revenue Code of 1986, as amended, an
22 individual may reduce his or her federal adjusted gross income by the
23 amounts received as annuities under the Civil Service Retirement System
24 which were earned for being employed by the federal government, to the
25 extent such amounts are included in federal adjusted gross income.

26 (21) For taxable years beginning or deemed to begin on or after
27 January 1, 2025, under the Internal Revenue Code of 1986, as amended, an
28 individual who is a member of the Nebraska National Guard may exclude one
29 hundred percent of the income received from any of the following sources
30 to the extent such income is included in the individual's federal
31 adjusted gross income:

1 (a) Serving in a 32 U.S.C. duty status such as members attending
2 drills, annual training, and military schools and members who are serving
3 in a 32 U.S.C. active guard reserve or active duty for operational
4 support duty status;

5 (b) Employment as a 32 U.S.C. federal dual-status technician with
6 the Nebraska National Guard; or

7 (c) Serving in a state active duty status.

8 (22)(a) For taxable years beginning or deemed to begin on or after
9 January 1, 2024, under the Internal Revenue Code of 1986, as amended, an
10 individual may reduce his or her federal adjusted gross income by the
11 amount of interest and principal balance of medical debt discharged under
12 the Medical Debt Relief Act, to the extent included in such individual's
13 federal adjusted gross income.

14 (b) For taxable years beginning or deemed to begin on or after
15 January 1, 2024, under the Internal Revenue Code of 1986, as amended,
16 federal adjusted gross income or, for corporations and fiduciaries,
17 federal taxable income shall be reduced by the amount of contributions
18 made to the Medical Debt Relief Fund, to the extent not deducted for
19 federal income tax purposes.

20 (23) For taxable years beginning or deemed to begin on or after
21 January 1, 2025, under the Internal Revenue Code of 1986, as amended, an
22 individual who is a qualifying employee as defined in section 77-3108 may
23 reduce his or her federal adjusted gross income by the amount allowed
24 under section 77-3111.

25 (24) For taxable years beginning or deemed to begin on or after
26 January 1, 2026, under the Internal Revenue Code of 1986, as amended,
27 federal adjusted gross income or, for corporations and fiduciaries,
28 federal taxable income shall be reduced by the amounts allowed to be
29 deducted pursuant to section 77-27,242.

30 (25) There shall be added to federal adjusted gross income or, for
31 corporations and fiduciaries, federal taxable income for all taxable

1 years beginning on or after January 1, 2025, the amount of any net
2 capital loss that is derived from the sale or exchange of gold or silver
3 bullion to the extent such loss is included in federal adjusted gross
4 income except that such loss shall not be added if the loss is derived
5 from the sale of bullion as a taxable distribution from any retirement
6 plan account that holds gold or silver bullion. For the purposes of this
7 subsection, bullion has the same meaning as in section 77-2704.66.

8 (26) There shall be subtracted from federal adjusted gross income
9 or, for corporations and fiduciaries, federal taxable income for all
10 taxable years beginning on or after January 1, 2025, the amount of any
11 net capital gain that is derived from the sale or exchange of gold or
12 silver bullion to the extent such gain is included in federal adjusted
13 gross income except that such gain shall not be subtracted if the gain is
14 derived from the sale of bullion as a taxable distribution from any
15 retirement plan account that holds gold or silver bullion. For the
16 purposes of this subsection, bullion has the same meaning as in section
17 77-2704.66.

18 **Sec. 7.** Original section 77-2716, Revised Statutes Cumulative
19 Supplement, 2024, is repealed.