

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 50

Introduced by Vargas, 7.

Read first time January 10, 2019

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2715.03 and 77-2716, Reissue Revised Statutes of Nebraska; to
- 3 change individual income tax brackets and rates; to impose an
- 4 additional tax on certain income; 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 77-2715.03, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 77-2715.03 (1) For taxable years beginning or deemed to begin on or
4 after January 1, 2013, and before January 1, 2014, the following brackets
5 and rates are hereby established for the Nebraska individual income tax:

6 Individual Income Tax Brackets and Rates

7 Bracket	Single	Married,	Head of	Married,	Estates	Tax
8 Number	Individuals	Filing	Household	Filing	and	Rate
		Jointly		Separate	Trusts	
10 1	\$0-2,399	\$0-4,799	\$0-4,499	\$0-2,399	\$0-499	2.46%
11 2	\$2,400-	\$4,800-	\$4,500-	\$2,400-	\$500-	
12	17,499	34,999	27,999	17,499	4,699	3.51%
13 3	\$17,500-	\$35,000-	\$28,000-	\$17,500-	\$4,700-	
14	26,999	53,999	39,999	26,999	15,149	5.01%
15 4	\$27,000	\$54,000	\$40,000	\$27,000	\$15,150	
16	and Over	and Over	and Over	and Over	and Over	6.84%

17 (2) For taxable years beginning or deemed to begin on or after
18 January 1, 2014, and before January 1, 2019, the following brackets and
19 rates are hereby established for the Nebraska individual income tax:

20 Individual Income Tax Brackets and Rates

21 Bracket	Single	Married,	Head of	Married,	Estates	Tax
22 Number	Individuals	Filing	Household	Filing	and	Rate
		Jointly		Separate	Trusts	
24 1	\$0-2,999	\$0-5,999	\$0-5,599	\$0-2,999	\$0-499	2.46%
25 2	\$3,000-	\$6,000-	\$5,600-	\$3,000-	\$500-	
26	17,999	35,999	28,799	17,999	4,699	3.51%
27 3	\$18,000-	\$36,000-	\$28,800-	\$18,000-	\$4,700-	
28	28,999	57,999	42,999	28,999	15,149	5.01%
29 4	\$29,000	\$58,000	\$43,000	\$29,000	\$15,150	
30	and Over	and Over	and Over	and Over	and Over	6.84%

1 (3) For taxable years beginning or deemed to begin on or after
2 January 1, 2019, the following brackets and rates are hereby established
3 for the Nebraska individual income tax:

4 Individual Income Tax Brackets and Rates

5 <u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
6 <u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
7		<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
8 <u>1</u>	<u>\$0-3,149</u>	<u>\$0-6,289</u>	<u>\$0-5,869</u>	<u>\$0-3,149</u>	<u>\$0-499</u>	<u>2.46%</u>
9 <u>2</u>	<u>\$3,150-</u>	<u>\$6,290-</u>	<u>\$5,870-</u>	<u>\$3,150-</u>	<u>\$500-</u>	
10	<u>18,879</u>	<u>37,759</u>	<u>30,209</u>	<u>18,879</u>	<u>4,699</u>	<u>3.51%</u>
11 <u>3</u>	<u>\$18,880-</u>	<u>\$37,760-</u>	<u>\$30,210-</u>	<u>\$18,880-</u>	<u>\$4,700-</u>	
12	<u>37,499</u>	<u>74,999</u>	<u>56,249</u>	<u>37,499</u>	<u>15,149</u>	<u>5.01%</u>
13 <u>4</u>	<u>\$37,500-</u>	<u>\$75,000-</u>	<u>\$56,250-</u>	<u>\$37,500-</u>	<u>\$15,150</u>	
14	<u>99,999</u>	<u>199,999</u>	<u>149,999</u>	<u>99,999</u>	<u>and Over</u>	<u>6.84%</u>
15 <u>5</u>	<u>\$100,000</u>	<u>\$200,000</u>	<u>\$150,000</u>	<u>\$100,000</u>		
16	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>		<u>7.84%</u>

17 (4) For taxable years beginning or deemed to begin on or after
18 January 1, 2019, in addition to the tax calculated pursuant to subsection
19 (3) of this section:

20 (a) A tax at the rate of one percent is imposed on that portion of
21 the taxpayer's Nebraska taxable income in excess of one million dollars;
22 and

23 (b) A tax at the rate of two percent is imposed on that portion of
24 the taxpayer's Nebraska taxable income in excess of two million dollars.

25 (5)(a) (3)(a) For taxable years beginning or deemed to begin on or
26 after January 1, 2020 2015, the minimum and maximum dollar amounts for
27 each income tax bracket provided in subsection (3) (2) of this section
28 and the income thresholds provided in subsection (4) of this section
29 shall be adjusted for inflation by the percentage determined under
30 subdivision (5)(b) (3)(b) of this section. The rate applicable to any
31 such income tax bracket shall not be changed as part of any adjustment

1 under this subsection. The minimum and maximum dollar amounts for each
2 income tax bracket and the income thresholds as adjusted shall be rounded
3 to the nearest ten-dollar amount. If the adjusted amount for any income
4 tax bracket or income threshold ends in a five, it shall be rounded up to
5 the nearest ten-dollar amount.

6 ~~(b)(i) For taxable years beginning or deemed to begin on or after~~
7 ~~January 1, 2015, and before January 1, 2018, the Tax Commissioner shall~~
8 ~~adjust the income tax brackets by the percentage determined pursuant to~~
9 ~~the provisions of section 1(f) of the Internal Revenue Code of 1986, as~~
10 ~~it existed prior to December 22, 2017, except that in section 1(f)(3)(B)~~
11 ~~of the code the year 2013 shall be substituted for the year 1992. For~~
12 ~~2015, the Tax Commissioner shall then determine the percent change from~~
13 ~~the twelve months ending on August 31, 2013, to the twelve months ending~~
14 ~~on August 31, 2014, and in each subsequent year, from the twelve months~~
15 ~~ending on August 31, 2013, to the twelve months ending on August 31 of~~
16 ~~the year preceding the taxable year. The Tax Commissioner shall prescribe~~
17 ~~new tax rate schedules that apply in lieu of the schedules set forth in~~
18 ~~subsection (2) of this section.~~

19 ~~(b) (ii) For taxable years beginning or deemed to begin on or after~~
20 ~~January 1, 2020 ~~2018~~, the Tax Commissioner shall adjust the income tax~~
21 ~~brackets in subsection (3) of this section and the income thresholds in~~
22 ~~subsection (4) of this section based on the percentage change in the~~
23 ~~Consumer Price Index for All Urban Consumers published by the federal~~
24 ~~Bureau of Labor Statistics from the twelve months ending on August 31,~~
25 ~~2018 ~~2016~~, to the twelve months ending on August 31 of the year preceding~~
26 ~~the taxable year. The Tax Commissioner shall prescribe new tax rate~~
27 ~~schedules and income thresholds that apply in lieu of the schedules and~~
28 ~~thresholds set forth in subsections (3) and (4) ~~subsection (2)~~ of this~~
29 ~~section.~~

30 ~~(6) (4) Whenever the tax brackets or tax rates are changed by the~~
31 ~~Legislature, the Tax Commissioner shall update the tax rate schedules to~~

1 reflect the new tax brackets or tax rates and shall publish such updated
2 schedules.

3 (7) ~~(5)~~ The Tax Commissioner shall prepare, from the rate schedules,
4 tax tables which can be used by a majority of the taxpayers to determine
5 their Nebraska tax liability. The design of the tax tables shall be
6 determined by the Tax Commissioner. The size of the tax table brackets
7 may change as the level of income changes. The difference in tax between
8 two tax table brackets shall not exceed fifteen dollars. The Tax
9 Commissioner may build the personal exemption credit and standard
10 deduction amounts into the tax tables.

11 (8) ~~(6)~~ For taxable years beginning or deemed to begin on or after
12 January 1, 2013, the tax rate applied to other federal taxes included in
13 the computation of the Nebraska individual income tax shall be 29.6
14 percent.

15 (9) ~~(7)~~ The Tax Commissioner may require by rule and regulation that
16 all taxpayers shall use the tax tables if their income is less than the
17 maximum income included in the tax tables.

18 Sec. 2. Section 77-2716, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 77-2716 (1) The following adjustments to federal adjusted gross
21 income or, for corporations and fiduciaries, federal taxable income shall
22 be made for interest or dividends received:

23 (a)(i) There shall be subtracted interest or dividends received by
24 the owner of obligations of the United States and its territories and
25 possessions or of any authority, commission, or instrumentality of the
26 United States to the extent includable in gross income for federal income
27 tax purposes but exempt from state income taxes under the laws of the
28 United States; and

29 (ii) There shall be subtracted interest received by the owner of
30 obligations of the State of Nebraska or its political subdivisions or
31 authorities which are Build America Bonds to the extent includable in

1 gross income for federal income tax purposes;

2 (b) There shall be subtracted that portion of the total dividends
3 and other income received from a regulated investment company which is
4 attributable to obligations described in subdivision (a) of this
5 subsection as reported to the recipient by the regulated investment
6 company;

7 (c) There shall be added interest or dividends received by the owner
8 of obligations of the District of Columbia, other states of the United
9 States, or their political subdivisions, authorities, commissions, or
10 instrumentalities to the extent excluded in the computation of gross
11 income for federal income tax purposes except that such interest or
12 dividends shall not be added if received by a corporation which is a
13 regulated investment company;

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

19 (e)(i) Any amount subtracted under this subsection shall be reduced
20 by any interest on indebtedness incurred to carry the obligations or
21 securities described in this subsection or the investment in the
22 regulated investment company and by any expenses incurred in the
23 production of interest or dividend income described in this subsection to
24 the extent that such expenses, including amortizable bond premiums, are
25 deductible in determining federal taxable income.

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

29 (2) There shall be allowed a net operating loss derived from or
30 connected with Nebraska sources computed under rules and regulations
31 adopted and promulgated by the Tax Commissioner consistent, to the extent

1 possible under the Nebraska Revenue Act of 1967, with the laws of the
2 United States. For a resident individual, estate, or trust, the net
3 operating loss computed on the federal income tax return shall be
4 adjusted by the modifications contained in this section. For a
5 nonresident individual, estate, or trust or for a partial-year resident
6 individual, the net operating loss computed on the federal return shall
7 be adjusted by the modifications contained in this section and any
8 carryovers or carrybacks shall be limited to the portion of the loss
9 derived from or connected with Nebraska sources.

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

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

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

27 (6) There shall be subtracted from federal taxable income a portion
28 of the income earned by a corporation subject to the Internal Revenue
29 Code of 1986 that is actually taxed by a foreign country or one of its
30 political subdivisions at a rate in excess of the maximum federal tax
31 rate for corporations. The taxpayer may make the computation for each

1 foreign country or for groups of foreign countries. The portion of the
2 taxes that may be deducted shall be computed in the following manner:

3 (a) The amount of federal taxable income from operations within a
4 foreign taxing jurisdiction shall be reduced by the amount of taxes
5 actually paid to the foreign jurisdiction that are not deductible solely
6 because the foreign tax credit was elected on the federal income tax
7 return;

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

10 (c) The result of the calculation in subdivision (b) of this
11 subsection shall be subtracted from the amount of federal taxable income
12 used in subdivision (a) of this subsection. The result of such
13 calculation, if greater than zero, shall be subtracted from federal
14 taxable income.

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

18 (8)(a) Federal adjusted gross income or, for corporations and
19 fiduciaries, federal taxable income shall be reduced, to the extent
20 included, by income from interest, earnings, and state contributions
21 received from the Nebraska educational savings plan trust created in
22 sections 85-1801 to 85-1814 and any account established under the
23 achieving a better life experience program as provided in sections
24 77-1401 to 77-1409.

25 (b) Federal adjusted gross income or, for corporations and
26 fiduciaries, federal taxable income shall be reduced by any contributions
27 as a participant in the Nebraska educational savings plan trust or
28 contributions to an account established under the achieving a better life
29 experience program made for the benefit of a beneficiary as provided in
30 sections 77-1401 to 77-1409, to the extent not deducted for federal
31 income tax purposes, but not to exceed five thousand dollars per married

1 filing separate return or ten thousand dollars for any other return. With
2 respect to a qualified rollover within the meaning of section 529 of the
3 Internal Revenue Code from another state's plan, any interest, earnings,
4 and state contributions received from the other state's educational
5 savings plan which is qualified under section 529 of the code shall
6 qualify for the reduction provided in this subdivision. For contributions
7 by a custodian of a custodial account including rollovers from another
8 custodial account, the reduction shall only apply to funds added to the
9 custodial account after January 1, 2014.

10 (c) Federal adjusted gross income or, for corporations and
11 fiduciaries, federal taxable income shall be increased by:

12 (i) The amount resulting from the cancellation of a participation
13 agreement refunded to the taxpayer as a participant in the Nebraska
14 educational savings plan trust to the extent previously deducted under
15 subdivision (8)(b) of this section; and

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

20 (9)(a) For income tax returns filed after September 10, 2001, for
21 taxable years beginning or deemed to begin before January 1, 2006, under
22 the Internal Revenue Code of 1986, as amended, federal adjusted gross
23 income or, for corporations and fiduciaries, federal taxable income shall
24 be increased by eighty-five percent of any amount of any federal bonus
25 depreciation received under the federal Job Creation and Worker
26 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
27 under section 168(k) or section 1400L of the Internal Revenue Code of
28 1986, as amended, for assets placed in service after September 10, 2001,
29 and before December 31, 2005.

30 (b) For a partnership, limited liability company, cooperative,
31 including any cooperative exempt from income taxes under section 521 of

1 the Internal Revenue Code of 1986, as amended, limited cooperative
2 association, subchapter S corporation, or joint venture, the increase
3 shall be distributed to the partners, members, shareholders, patrons, or
4 beneficiaries in the same manner as income is distributed for use against
5 their income tax liabilities.

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

10 (d) The amount of bonus depreciation added to federal adjusted gross
11 income or, for corporations and fiduciaries, federal taxable income by
12 this subsection shall be subtracted in a later taxable year. Twenty
13 percent of the total amount of bonus depreciation added back by this
14 subsection for tax years beginning or deemed to begin before January 1,
15 2003, under the Internal Revenue Code of 1986, as amended, may be
16 subtracted in the first taxable year beginning or deemed to begin on or
17 after January 1, 2005, under the Internal Revenue Code of 1986, as
18 amended, and twenty percent in each of the next four following taxable
19 years. Twenty percent of the total amount of bonus depreciation added
20 back by this subsection for tax years beginning or deemed to begin on or
21 after January 1, 2003, may be subtracted in the first taxable year
22 beginning or deemed to begin on or after January 1, 2006, under the
23 Internal Revenue Code of 1986, as amended, and twenty percent in each of
24 the next four following taxable years.

25 (10) For taxable years beginning or deemed to begin on or after
26 January 1, 2003, and before January 1, 2006, under the Internal Revenue
27 Code of 1986, as amended, federal adjusted gross income or, for
28 corporations and fiduciaries, federal taxable income shall be increased
29 by the amount of any capital investment that is expensed under section
30 179 of the Internal Revenue Code of 1986, as amended, that is in excess
31 of twenty-five thousand dollars that is allowed under the federal Jobs

1 and Growth Tax Act of 2003. Twenty percent of the total amount of
2 expensing added back by this subsection for tax years beginning or deemed
3 to begin on or after January 1, 2003, may be subtracted in the first
4 taxable year beginning or deemed to begin on or after January 1, 2006,
5 under the Internal Revenue Code of 1986, as amended, and twenty percent
6 in each of the next four following tax years.

7 (11)(a) For taxable years beginning or deemed to begin before
8 January 1, 2018, under the Internal Revenue Code of 1986, as amended,
9 federal adjusted gross income shall be reduced by contributions, up to
10 two thousand dollars per married filing jointly return or one thousand
11 dollars for any other return, and any investment earnings made as a
12 participant in the Nebraska long-term care savings plan under the Long-
13 Term Care Savings Plan Act, to the extent not deducted for federal income
14 tax purposes.

15 (b) For taxable years beginning or deemed to begin before January 1,
16 2018, under the Internal Revenue Code of 1986, as amended, federal
17 adjusted gross income shall be increased by the withdrawals made as a
18 participant in the Nebraska long-term care savings plan under the act by
19 a person who is not a qualified individual or for any reason other than
20 transfer of funds to a spouse, long-term care expenses, long-term care
21 insurance premiums, or death of the participant, including withdrawals
22 made by reason of cancellation of the participation agreement, to the
23 extent previously deducted as a contribution or as investment earnings.

24 (12) There shall be added to federal adjusted gross income for
25 individuals, estates, and trusts any amount taken as a credit for
26 franchise tax paid by a financial institution under sections 77-3801 to
27 77-3807 as allowed by subsection (5) of section 77-2715.07.

28 (13)(a) For taxable years beginning or deemed to begin on or after
29 January 1, 2015, under the Internal Revenue Code of 1986, as amended,
30 federal adjusted gross income shall be reduced by the amount received as
31 benefits under the federal Social Security Act which are included in the

1 federal adjusted gross income if:

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

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

6 (b) For taxable years beginning or deemed to begin on or after
7 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
8 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
9 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
10 individual income tax brackets under subsection (5) ~~(3)~~ of section
11 77-2715.03.

12 (14) For taxable years beginning or deemed to begin on or after
13 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an
14 individual may make a one-time election within two calendar years after
15 the date of his or her retirement from the military to exclude income
16 received as a military retirement benefit by the individual to the extent
17 included in federal adjusted gross income and as provided in this
18 subsection. The individual may elect to exclude forty percent of his or
19 her military retirement benefit income for seven consecutive taxable
20 years beginning with the year in which the election is made or may elect
21 to exclude fifteen percent of his or her military retirement benefit
22 income for all taxable years beginning with the year in which he or she
23 turns sixty-seven years of age. For purposes of this subsection, military
24 retirement benefit means retirement benefits that are periodic payments
25 attributable to service in the uniformed services of the United States
26 for personal services performed by an individual prior to his or her
27 retirement.

28 Sec. 3. Original sections 77-2715.03 and 77-2716, Reissue Revised
29 Statutes of Nebraska, are repealed.