

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1305**

Introduced by Hansen, 16.

Read first time January 17, 2024

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-101, 77-106, and 77-2704.66, Reissue Revised Statutes of  
3 Nebraska, and section 77-2716, Revised Statutes Supplement, 2023; to  
4 prohibit tax liability on the purchase, sale, or exchange of gold or  
5 silver bullion; to define and redefine terms; to change sales tax  
6 exemptions provisions relating to currency and bullion; to provide  
7 an income tax adjustment for net capital losses and gains of the  
8 sale or exchange of gold or silver bullion; to provide an operative  
9 date; and to repeal the original sections.  
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-101, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 77-101 For purposes of Chapter 77 and any statutes dealing with  
4 taxation, unless the context otherwise requires, the definitions found in  
5 sections 77-102 to 77-132 and section 3 of this act shall be used.

6 Sec. 2. Section 77-106, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 77-106 The term money includes all kinds of coin and all kinds of  
9 paper, issued by or under authority of the United States, circulating as  
10 money. Money does not include central bank digital currency.

11 Sec. 3. Central bank digital currency means any digital currency,  
12 digital medium of exchange, or digital monetary unit of account issued by  
13 the United States Federal Reserve System, a federal agency, a foreign  
14 government, a foreign central bank, or a foreign reserve system, that is  
15 made directly available to a consumer by such entities, and includes any  
16 such digital currency, digital medium of exchange, or digital monetary  
17 unit of account that is processed or validated directly by such entities.

18 Sec. 4. Section 77-2704.66, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 77-2704.66 (1) Sales and use taxes shall not be imposed on the gross  
21 receipts from the sale, lease, or rental of and the storage, use, or  
22 other consumption in this state of currency or bullion.

23 (2) For purposes of this section:

24 (a) Bullion means coins, bars, ingots, notes, leaf, foil, film, or  
25 commemorative medallions of gold, silver, platinum, or palladium, or a  
26 combination of these, for which the value of the metal depends primarily  
27 on its content and not the form; and

28 (b) Currency means a coin or currency made of gold, silver, or other  
29 metal or paper which is or has been used as legal tender.

30 Sec. 5. Section 77-2716, Revised Statutes Supplement, 2023, is  
31 amended to read:

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

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

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

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

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

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

31           (e)(i) Any amount subtracted under this subsection shall be reduced

1 by any interest on indebtedness incurred to carry the obligations or  
2 securities described in this subsection or the investment in the  
3 regulated investment company and by any expenses incurred in the  
4 production of interest or dividend income described in this subsection to  
5 the extent that such expenses, including amortizable bond premiums, are  
6 deductible in determining federal taxable income.

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

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

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

28 (4) Federal adjusted gross income, or, for a fiduciary, federal  
29 taxable income shall be modified to exclude the portion of the income or  
30 loss received from a small business corporation with an election in  
31 effect under subchapter S of the Internal Revenue Code or from a limited

1 liability company organized pursuant to the Nebraska Uniform Limited  
2 Liability Company Act that is not derived from or connected with Nebraska  
3 sources as determined in section 77-2734.01.

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

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

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

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

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

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

30 (8)(a) Federal adjusted gross income or, for corporations and  
31 fiduciaries, federal taxable income shall be reduced, to the extent

1 included, by income from interest, earnings, and state contributions  
2 received from the Nebraska educational savings plan trust created in  
3 sections 85-1801 to 85-1817 and any account established under the  
4 achieving a better life experience program as provided in sections  
5 77-1401 to 77-1409.

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

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

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

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

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

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

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

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

30 (d) The amount of bonus depreciation added to federal adjusted gross  
31 income or, for corporations and fiduciaries, federal taxable income by

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

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

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

1 participant in the Nebraska long-term care savings plan under the Long-  
2 Term Care Savings Plan Act, to the extent not deducted for federal income  
3 tax purposes.

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

13 (12) There shall be added to federal adjusted gross income for  
14 individuals, estates, and trusts any amount taken as a credit for  
15 franchise tax paid by a financial institution under sections 77-3801 to  
16 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

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

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

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

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

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

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

21 (iv) One hundred percent for taxable years beginning or deemed to  
22 begin on or after January 1, 2024, under the Internal Revenue Code of  
23 1986, as amended.

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

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

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

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

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

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

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

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

1 in federal adjusted gross income.

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

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

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

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

28 (21) There shall be added to federal adjusted gross income or, for  
29 corporations and fiduciaries, federal taxable income for all taxable  
30 years beginning on or after January 1, 2025, the amount of any net  
31 capital loss that is derived from the sale or exchange of gold or silver

1 bullion to the extent such loss is included in federal adjusted gross  
2 income. For the purposes of this subsection, bullion has the same meaning  
3 as in section 77-2704.66.

4 (22) There shall be subtracted from federal adjusted gross income  
5 or, for corporations and fiduciaries, federal taxable income for all  
6 taxable years beginning on or after January 1, 2025, the amount of any  
7 net capital gain that is derived from the sale or exchange of gold or  
8 silver bullion to the extent such gain is included in federal adjusted  
9 gross income. For the purposes of this subsection, bullion has the same  
10 meaning as in section 77-2704.66.

11 Sec. 6. This act becomes operative on January 1, 2025.

12 Sec. 7. Original sections 77-101, 77-106, and 77-2704.66, Reissue  
13 Revised Statutes of Nebraska, and section 77-2716, Revised Statutes  
14 Supplement, 2023, are repealed.