

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 299**

Introduced by McDonnell, 5.

Read first time January 12, 2021

Committee: Revenue

- 1 A BILL FOR AN ACT relating to firefighters; to amend section 77-2716,
- 2 Revised Statutes Cumulative Supplement, 2020; to adopt the
- 3 Firefighter Cancer Benefits Act; to provide for an income tax
- 4 exemption for such benefits; to provide an operative date; and to
- 5 repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 10 of this act shall be known and may be  
2 cited as the Firefighter Cancer Benefits Act.

3           Sec. 2. For purposes of the Firefighter Cancer Benefits Act:

4           (1) Cancer means:

5           (a) A disease (i) caused by an uncontrolled division of abnormal  
6 cells in a part of the body or a malignant growth or tumor resulting from  
7 the division of abnormal cells and (ii) affecting the prostate, breast,  
8 or lung or the lymphatic, hematological, digestive, urinary,  
9 neurological, or reproductive system; or

10          (b) Melanoma; and

11          (2) Firefighter means:

12          (a) A firefighter or firefighter-paramedic who is a member of a paid  
13 fire department of a municipality or a rural or suburban fire protection  
14 district in this state, including a municipality having a home rule  
15 charter or a municipal authority created pursuant to a home rule charter  
16 that has its own paid fire department;

17          (b) A firefighter or firefighter-paramedic who is a member of a paid  
18 fire department of an airport authority; or

19          (c) A volunteer firefighter who has been deemed an employee under  
20 subdivision (3) of section 48-115.

21          Sec. 3. Before any firefighter is entitled to benefits under the  
22 Firefighter Cancer Benefits Act, such firefighter shall (1) have  
23 successfully passed a physical examination which failed to reveal any  
24 evidence of cancer and (2) have served at least twelve consecutive months  
25 as a firefighter at any fire station within the State of Nebraska. After  
26 serving at least twelve consecutive months as a firefighter, the  
27 firefighter shall be deemed to be in compliance with subdivision (2) of  
28 this section even with a break in service, so long as such break does not  
29 exceed six months.

30          Sec. 4. (1) Beginning on and after the operative date of this act,  
31 every rural or suburban fire protection district, airport authority,

1 city, village, or nonprofit corporation shall provide and maintain  
2 enhanced cancer benefits. Such benefits shall include, at a minimum, the  
3 following:

4 (a) A lump-sum benefit of twenty-five thousand dollars for each  
5 diagnosis payable to a firefighter upon acceptable proof to the insurance  
6 carrier or other payor of a diagnosis by a board-certified physician in  
7 the medical specialty appropriate for the type of cancer diagnosed that  
8 there are one or more malignant tumors characterized by the  
9 uncontrollable and abnormal growth and spread of malignant cells with  
10 invasion of normal tissue, and that either:

11 (i) There is metastasis and:

12 (A) Surgery, radiotherapy, or chemotherapy is medically necessary;

13 or

14 (B) There is a tumor of the prostate, provided that it is treated  
15 with radical prostatectomy or external beam therapy; or

16 (ii) Such firefighter has terminal cancer, his or her life  
17 expectancy is twenty-four months or less from the date of diagnosis, and  
18 he or she will not benefit from, or has exhausted, curative therapy;

19 (b) A lump-sum benefit of six thousand two hundred fifty dollars for  
20 each diagnosis payable to a firefighter upon acceptable proof to the  
21 insurance carrier or other payor of a diagnosis by a board-certified  
22 physician in the medical specialty appropriate for the type of cancer  
23 involved that either:

24 (i) There is carcinoma in situ such that surgery, radiotherapy, or  
25 chemotherapy has been determined to be medically necessary;

26 (ii) There are malignant tumors which are treated by endoscopic  
27 procedures alone; or

28 (iii) There are malignant melanomas; and

29 (c)(i) A monthly benefit of one thousand five hundred dollars  
30 payable to a firefighter, of which the first payment shall be made six  
31 months after total disability and submission of acceptable proof of such

1 disability to the insurance carrier or other payor that such disability  
2 is caused by cancer and that such cancer precludes the firefighter from  
3 serving as a firefighter. Such benefit shall continue for up to thirty-  
4 six consecutive monthly payments.

5 (ii) Such monthly benefit shall be subordinate to any other benefit  
6 actually paid to the firefighter solely for such disability from any  
7 other source, not including private insurance purchased solely by the  
8 firefighter, and shall be limited to the difference between the amount of  
9 such other pay benefit and the amount specified in this section.

10 (iii) Any firefighter receiving such monthly benefit may be required  
11 to have his or her condition reevaluated. In the event any such  
12 reevaluation reveals that such person has regained the ability to perform  
13 duties as a firefighter, then his or her monthly benefits shall cease the  
14 last day of the month of the reevaluation.

15 (iv) In the event that there is a subsequent reoccurrence of a  
16 disability caused by cancer which precludes the firefighter from serving  
17 as a firefighter, he or she shall be entitled to receive any remaining  
18 monthly benefits.

19 (2) A firefighter shall also be entitled to an additional payment of  
20 enhanced cancer death benefits in the amount of fifty thousand dollars  
21 payable to his or her beneficiary or, if no beneficiary is named, to such  
22 firefighter's estate upon acceptable proof by a board-certified physician  
23 that such firefighter's death resulted from complications associated with  
24 cancer.

25 (3) A firefighter shall be ineligible for benefits under the  
26 Firefighter Cancer Benefits Act if he or she is already provided paid  
27 firefighter cancer benefits pursuant to section 35-1001.

28 Sec. 5. The combined total of all benefits received by any  
29 firefighter pursuant to subdivisions (1)(a) and (b) of section 4 of this  
30 act during his or her lifetime shall not exceed fifty thousand dollars.

31 Sec. 6. Any firefighter who was simultaneously a member of more

1 than one fire department at the time of diagnosis shall not be entitled  
2 to receive benefits under the Firefighter Cancer Benefits Act from or on  
3 behalf of more than one of such fire departments. In the event a  
4 volunteer of one fire department is simultaneously employed as a  
5 firefighter who is a member of a paid fire department of a municipality,  
6 an airport authority, or a rural or suburban fire protection district,  
7 the rural or suburban fire protection district, city, village, or  
8 nonprofit corporation for which such person serves as a volunteer shall  
9 not be required to maintain benefits on such volunteer otherwise required  
10 under the Firefighter Cancer Benefits Act during the period of time of  
11 such employment.

12       Sec. 7. A firefighter shall remain eligible for benefits pursuant  
13 to subdivisions (1)(a) and (b) and subsection (2) of section 4 of this  
14 act for sixty months after the formal cessation of the firefighter's  
15 status as a firefighter. The rural or suburban fire protection district,  
16 airport authority, city, village, or nonprofit corporation for which such  
17 firefighter served shall be responsible for payment of all premiums or  
18 other costs associated with benefits provided under subsections (1) and  
19 (2) of section 4 of this act throughout the duration of the firefighter's  
20 coverage.

21       Sec. 8. A rural or suburban fire protection district, airport  
22 authority, city, village, or nonprofit corporation shall, no later than  
23 January 1, 2022, maintain proof of insurance coverage that meets the  
24 requirements of the Firefighter Cancer Benefits Act or shall maintain  
25 satisfactory proof of the ability to pay such compensation to ensure  
26 adequate coverage for all firefighters. Sufficient documentation of  
27 satisfactory proof of the ability to pay such compensation to ensure  
28 adequate coverage for all firefighters shall be required and shall comply  
29 with rules and regulations adopted and promulgated by the State Fire  
30 Marshal. Such coverage shall remain in effect until sixty months after  
31 the rural or suburban fire protection district, airport authority, city,

1 village, or nonprofit corporation no longer has any firefighters who  
2 could qualify for benefits under the act.

3       Sec. 9. Any rural or suburban fire protection district, airport  
4 authority, city, village, or nonprofit corporation that has had a  
5 firefighter file a claim for or receive cancer benefits under the  
6 Firefighter Cancer Benefits Act shall report such claims filed, claims  
7 paid, and types of claims to the State Fire Marshal. Beginning on  
8 December 1, 2023, the State Fire Marshal shall submit electronically an  
9 annual report to the Legislature and Governor stating the number of  
10 firefighters who have filed claims pursuant to the act and the number of  
11 firefighters who have received benefits under the act.

12       Sec. 10. The State Fire Marshal may adopt and promulgate rules and  
13 regulations necessary to carry out the Firefighter Cancer Benefits Act.

14       Sec. 11. Section 77-2716, Revised Statutes Cumulative Supplement,  
15 2020, is amended to read:

16       77-2716 (1) The following adjustments to federal adjusted gross  
17 income or, for corporations and fiduciaries, federal taxable income shall  
18 be made for interest or dividends received:

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

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

29       (b) There shall be subtracted that portion of the total dividends  
30 and other income received from a regulated investment company which is  
31 attributable to obligations described in subdivision (a) of this

1 subsection as reported to the recipient by the regulated investment  
2 company;

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

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

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

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

25 (2) There shall be allowed a net operating loss derived from or  
26 connected with Nebraska sources computed under rules and regulations  
27 adopted and promulgated by the Tax Commissioner consistent, to the extent  
28 possible under the Nebraska Revenue Act of 1967, with the laws of the  
29 United States. For a resident individual, estate, or trust, the net  
30 operating loss computed on the federal income tax return shall be  
31 adjusted by the modifications contained in this section. For a

1 nonresident individual, estate, or trust or for a partial-year resident  
2 individual, the net operating loss computed on the federal return shall  
3 be adjusted by the modifications contained in this section and any  
4 carryovers or carrybacks shall be limited to the portion of the loss  
5 derived from or connected with Nebraska sources.

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

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

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

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

30 (a) The amount of federal taxable income from operations within a  
31 foreign taxing jurisdiction shall be reduced by the amount of taxes

1 actually paid to the foreign jurisdiction that are not deductible solely  
2 because the foreign tax credit was elected on the federal income tax  
3 return;

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

6 (c) The result of the calculation in subdivision (b) of this  
7 subsection shall be subtracted from the amount of federal taxable income  
8 used in subdivision (a) of this subsection. The result of such  
9 calculation, if greater than zero, shall be subtracted from federal  
10 taxable income.

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

14 (8)(a) Federal adjusted gross income or, for corporations and  
15 fiduciaries, federal taxable income shall be reduced, to the extent  
16 included, by income from interest, earnings, and state contributions  
17 received from the Nebraska educational savings plan trust created in  
18 sections 85-1801 to 85-1817 and any account established under the  
19 achieving a better life experience program as provided in sections  
20 77-1401 to 77-1409.

21 (b) Federal adjusted gross income or, for corporations and  
22 fiduciaries, federal taxable income shall be reduced by any contributions  
23 as a participant in the Nebraska educational savings plan trust or  
24 contributions to an account established under the achieving a better life  
25 experience program made for the benefit of a beneficiary as provided in  
26 sections 77-1401 to 77-1409, to the extent not deducted for federal  
27 income tax purposes, but not to exceed five thousand dollars per married  
28 filing separate return or ten thousand dollars for any other return. With  
29 respect to a qualified rollover within the meaning of section 529 of the  
30 Internal Revenue Code from another state's plan, any interest, earnings,  
31 and state contributions received from the other state's educational

1 savings plan which is qualified under section 529 of the code shall  
2 qualify for the reduction provided in this subdivision. For contributions  
3 by a custodian of a custodial account including rollovers from another  
4 custodial account, the reduction shall only apply to funds added to the  
5 custodial account after January 1, 2014.

6 (c) 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, to the extent included in  
9 the adjusted gross income of an individual, by the amount of any  
10 contribution made by the individual's employer into an account under the  
11 Nebraska educational savings plan trust owned by the individual, not to  
12 exceed five thousand dollars per married filing separate return or ten  
13 thousand dollars for any other return.

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

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

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

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

1 1986, as amended, for assets placed in service after September 10, 2001,  
2 and before December 31, 2005.

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

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

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

29 (10) For taxable years beginning or deemed to begin on or after  
30 January 1, 2003, and before January 1, 2006, under the Internal Revenue  
31 Code of 1986, as amended, federal adjusted gross income or, for

1 corporations and fiduciaries, federal taxable income shall be increased  
2 by the amount of any capital investment that is expensed under section  
3 179 of the Internal Revenue Code of 1986, as amended, that is in excess  
4 of twenty-five thousand dollars that is allowed under the federal Jobs  
5 and Growth Tax Act of 2003. Twenty percent of the total amount of  
6 expensing added back by this subsection for tax years beginning or deemed  
7 to begin on or after January 1, 2003, may be subtracted in the first  
8 taxable year beginning or deemed to begin on or after January 1, 2006,  
9 under the Internal Revenue Code of 1986, as amended, and twenty percent  
10 in each of the next four following tax years.

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

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

28 (12) There shall be added to federal adjusted gross income for  
29 individuals, estates, and trusts any amount taken as a credit for  
30 franchise tax paid by a financial institution under sections 77-3801 to  
31 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

10          (b) For taxable years beginning or deemed to begin on or after  
11 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the  
12 Tax Commissioner shall adjust the dollar amounts provided in subdivisions  
13 (13)(a)(i) and (ii) of this section by the same percentage used to adjust  
14 individual income tax brackets under subsection (3) of section  
15 77-2715.03.

16          (14)(a) For taxable years beginning or deemed to begin on or after  
17 January 1, 2015, and before January 1, 2022, under the Internal Revenue  
18 Code of 1986, as amended, an individual may make a one-time election  
19 within two calendar years after the date of his or her retirement from  
20 the military to exclude income received as a military retirement benefit  
21 by the individual to the extent included in federal adjusted gross income  
22 and as provided in this subdivision. The individual may elect to exclude  
23 forty percent of his or her military retirement benefit income for seven  
24 consecutive taxable years beginning with the year in which the election  
25 is made or may elect to exclude fifteen percent of his or her military  
26 retirement benefit income for all taxable years beginning with the year  
27 in which he or she turns sixty-seven years of age.

28          (b) For taxable years beginning or deemed to begin on or after  
29 January 1, 2022, under the Internal Revenue Code of 1986, as amended, an  
30 individual may exclude fifty percent of the military retirement benefit  
31 income received by such individual to the extent included in federal

1 adjusted gross income.

2 (c) For purposes of this subsection, military retirement benefit  
3 means retirement benefits that are periodic payments attributable to  
4 service in the uniformed services of the United States for personal  
5 services performed by an individual prior to his or her retirement.

6 (15) 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 the amount received as  
9 a Segal AmeriCorps Education Award, to the extent such amount is included  
10 in federal adjusted gross income.

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

17 Sec. 12. This act becomes operative on January 1, 2022.

18 Sec. 13. Original section 77-2716, Revised Statutes Cumulative  
19 Supplement, 2020, is repealed.