

AMENDMENTS TO LB640

(Amendments to Standing Committee amendments, AM752)

Introduced by Briese, 41.

1           1. Insert the following new sections:

2           Section 1. Section 77-382, Revised Statutes Cumulative Supplement,  
3   2016, is amended to read:

4           77-382 (1) The department shall prepare a tax expenditure report  
5   describing (a) the basic provisions of the Nebraska tax laws, (b) the  
6   actual or estimated revenue loss caused by the exemptions, deductions,  
7   exclusions, deferrals, credits, and preferential rates in effect on July  
8   1 of each year and allowed under Nebraska's tax structure and in the  
9   property tax, (c) the actual or estimated revenue loss caused by failure  
10   to impose sales and use tax on services purchased for nonbusiness use,  
11   and (d) the elements which make up the tax base for state and local  
12   income, including income, sales and use, property, and miscellaneous  
13   taxes.

14          (2) The department shall review the major tax exemptions for which  
15   state general funds are used to reduce the impact of revenue lost due to  
16   a tax expenditure. The report shall indicate an estimate of the amount of  
17   the reduction in revenue resulting from the operation of all tax  
18   expenditures. The report shall list each tax expenditure relating to  
19   sales and use tax under the following categories:

20          (a) Agriculture, which shall include a separate listing for the  
21   following items: Agricultural machinery; agricultural chemicals; seeds  
22   sold to commercial producers; water for irrigation and manufacturing;  
23   commercial artificial insemination; mineral oil as dust suppressant;  
24   animal grooming; oxygen for use in aquaculture; animal life whose  
25   products constitute food for human consumption; and grains;

26          (b) Business across state lines, which shall include a separate

1 listing for the following items: Property shipped out-of-state;  
2 fabrication labor for items to be shipped out-of-state; property to be  
3 transported out-of-state; property purchased in other states to be used  
4 in Nebraska; aircraft delivery to an out-of-state resident or business;  
5 state reciprocal agreements for industrial machinery; and property taxed  
6 in another state;

7 (c) Common carrier and logistics, which shall include a separate  
8 listing for the following items: Railroad rolling stock and repair parts  
9 and services; common or contract carriers and repair parts and services;  
10 common or contract carrier accessories; and common or contract carrier  
11 safety equipment;

12 (d) Consumer goods, which shall include a separate listing for the  
13 following items: Motor vehicles and motorboat trade-ins; merchandise  
14 trade-ins; certain medical equipment and medicine; newspapers;  
15 ~~laundromats; telefloral deliveries;~~ motor vehicle discounts for the  
16 disabled; and political campaign fundraisers;

17 (e) Energy, which shall include a separate listing for the following  
18 items: Motor fuels; energy used in industry; energy used in agriculture;  
19 aviation fuel; and minerals, oil, and gas severed from real property;

20 (f) Food, which shall include a separate listing for the following  
21 items: Food for home consumption; Supplemental Nutrition Assistance  
22 Program; ~~school lunches;~~ meals sold by hospitals; meals sold by  
23 institutions at a flat rate; food for the elderly, handicapped, and  
24 Supplemental Security Income recipients; and meals sold by churches;

25 (g) General business, which shall include a separate listing for the  
26 following items: Component and ingredient parts; manufacturing machinery;  
27 containers; film rentals; molds and dies; syndicated programming;  
28 intercompany sales; intercompany leases; sale of a business or farm  
29 machinery; and transfer of property in a change of business ownership;

30 (h) Lodging and shelter, which shall include a separate listing for  
31 the following item: Room rentals by certain institutions;

1 (i) Miscellaneous, which shall include a separate listing for the  
2 following items: Cash discounts and coupons; separately stated finance  
3 charges; casual sales; lease-to-purchase agreements; and separately  
4 stated taxes;

5 (j) Nonprofits, governments, and exempt entities, which shall  
6 include a separate listing for the following items: Purchases by  
7 political subdivisions of the state; purchases by churches and nonprofit  
8 colleges and medical facilities; purchasing agents for public real estate  
9 construction improvements; contractor as purchasing agent for public  
10 agencies; Nebraska lottery; admissions to school events; sales on Native  
11 American Indian reservations; school-supporting fundraisers; ~~fine art~~  
12 ~~purchases by a museum~~; purchases by the Nebraska State Fair Board;  
13 purchases by the Nebraska Investment Finance Authority and licensees of  
14 the State Racing Commission; purchases by the United States Government;  
15 public records; and sales by religious organizations;

16 (k) Recent sales tax expenditures, which shall include a separate  
17 listing for each sales tax expenditure created by statute or rule and  
18 regulation after July 19, 2012;

19 (l) Services purchased for nonbusiness use, which shall include a  
20 separate listing for each such service, including, but not limited to,  
21 the following items: Entertainment ~~Motor vehicle cleaning, maintenance,~~  
22 ~~and repair services; cleaning and repair of clothing; cleaning,~~  
23 ~~maintenance, and repair of other tangible personal property; maintenance,~~  
24 ~~painting, and repair of real property; entertainment admissions; personal~~  
25 care services; lawn care, gardening, and landscaping services; pet-  
26 related services; ~~storage and moving services~~; household utilities; ~~other~~  
27 ~~personal services; taxi, limousine, and other transportation services;~~  
28 legal services; accounting services; other professional services; and  
29 other real estate services; and

30 (m) Telecommunications, which shall include a separate listing for  
31 the following items: Telecommunications access charges; ~~prepaid calling~~

1 ~~arrangements~~; conference bridging services; and nonvoice data services.

2 (3) It is the intent of the Legislature that nothing in the Tax  
3 Expenditure Reporting Act shall cause the valuation or assessment of any  
4 property exempt from taxation on the basis of its use exclusively for  
5 religious, educational, or charitable purposes.

6 Sec. 2. Section 77-2701.16, Revised Statutes Cumulative Supplement,  
7 2016, is amended to read:

8 77-2701.16 (1) Gross receipts means the total amount of the sale or  
9 lease or rental price, as the case may be, of the retail sales of  
10 retailers.

11 (2) Gross receipts of every person engaged as a public utility  
12 specified in this subsection, as a community antenna television service  
13 operator, or as a satellite service operator or any person involved in  
14 connecting and installing services defined in subdivision (2)(a), (b), or  
15 (d) of this section means:

16 (a)(i) In the furnishing of telephone communication service, other  
17 than mobile telecommunications service as described in section  
18 77-2703.04, the gross income received from furnishing ancillary services,  
19 except for conference bridging services, and intrastate  
20 telecommunications services, except for value-added, nonvoice data  
21 service.

22 (ii) In the furnishing of mobile telecommunications service as  
23 described in section 77-2703.04, the gross income received from  
24 furnishing mobile telecommunications service that originates and  
25 terminates in the same state to a customer with a place of primary use in  
26 Nebraska;

27 (b) In the furnishing of telegraph service, the gross income  
28 received from the furnishing of intrastate telegraph services;

29 (c)(i) In the furnishing of gas, sewer, water, and electricity  
30 service, other than electricity service to a customer-generator as  
31 defined in section 70-2002, the gross income received from the furnishing

1 of such services upon billings or statements rendered to consumers for  
2 such utility services.

3 (ii) In the furnishing of electricity service to a customer-  
4 generator as defined in section 70-2002, the net energy use upon billings  
5 or statements rendered to customer-generators for such electricity  
6 service;

7 (d) In the furnishing of community antenna television service or  
8 satellite service, the gross income received from the furnishing of such  
9 community antenna television service as regulated under sections 18-2201  
10 to 18-2205 or 23-383 to 23-388 or satellite service; and

11 (e) The gross income received from the provision, installation,  
12 construction, servicing, or removal of property used in conjunction with  
13 the furnishing, installing, or connecting of any public utility services  
14 specified in subdivision (2)(a) or (b) of this section or community  
15 antenna television service or satellite service specified in subdivision  
16 (2)(d) of this section, except when acting as a subcontractor for a  
17 public utility, this subdivision does not apply to the gross income  
18 received by a contractor electing to be treated as a consumer of building  
19 materials under subdivision (2) or (3) of section 77-2701.10 for any such  
20 services performed on the customer's side of the utility demarcation  
21 point.

22 (3) Gross receipts of every person engaged in selling, leasing, or  
23 otherwise providing intellectual or entertainment property means:

24 (a) In the furnishing of computer software, the gross income  
25 received, including the charges for coding, punching, or otherwise  
26 producing any computer software and the charges for the tapes, disks,  
27 punched cards, or other properties furnished by the seller; and

28 (b) In the furnishing of videotapes, movie film, satellite  
29 programming, satellite programming service, and satellite television  
30 signal descrambling or decoding devices, the gross income received from  
31 the license, franchise, or other method establishing the charge.

1 (4) Gross receipts for providing a service means:

2 (a) The gross income received for building cleaning and maintenance,  
3 pest control, and security;

4 (b) The gross income received for motor vehicle washing, waxing,  
5 towing, and painting;

6 (c) The gross income received for computer software training;

7 (d) The gross income received for installing and applying tangible  
8 personal property if the sale of the property is subject to tax. If any  
9 or all of the charge for installation is free to the customer and is paid  
10 by a third-party service provider to the installer, any tax due on that  
11 part of the activation commission, finder's fee, installation charge, or  
12 similar payment made by the third-party service provider shall be paid  
13 and remitted by the third-party service provider;

14 (e) The gross income received for services of recreational vehicle  
15 parks;

16 (f) The gross income received for labor for repair or maintenance  
17 services performed with regard to tangible personal property the sale of  
18 which would be subject to sales and use taxes, ~~excluding motor vehicles,~~  
19 except as otherwise provided in section 77-2704.26 or 77-2704.50;

20 (g) The gross income received for animal specialty services except  
21 (i) veterinary services, (ii) specialty services performed on livestock  
22 as defined in section 54-183, and (iii) animal grooming performed by a  
23 licensed veterinarian or a licensed veterinary technician in conjunction  
24 with medical treatment; ~~and~~

25 (h) The gross income received for detective services; ~~+~~

26 (i) The gross income received for the cleaning of tangible personal  
27 property;

28 (j) The gross income received for storage and moving services;

29 (k) The gross income received for investment advice;

30 (l) The gross income received for tanning services;

31 (m) The gross income received for maintenance, painting, repair, and

1 interior decoration services for single-family housing;

2 (n) The gross income received for limousine, taxi, and other  
3 transportation services;

4 (o) The gross income received for parking lot services;

5 (p) The gross income received for swimming pool cleaning and  
6 maintenance services;

7 (q) The gross income received for dating and escort services;

8 (r) The gross income received for instruction in music, dance, golf,  
9 and other recreational activities; and

10 (s) The gross income received for telefloral delivery services.

11 (5) Gross receipts includes the sale of admissions. When an  
12 admission to an activity or a membership constituting an admission is  
13 combined with the solicitation of a contribution, the portion or the  
14 amount charged representing the fair market price of the admission shall  
15 be considered a retail sale subject to the tax imposed by section  
16 77-2703. The organization conducting the activity shall determine the  
17 amount properly attributable to the purchase of the privilege, benefit,  
18 or other consideration in advance, and such amount shall be clearly  
19 indicated on any ticket, receipt, or other evidence issued in connection  
20 with the payment.

21 (6) Gross receipts includes the sale of live plants incorporated  
22 into real estate except when such incorporation is incidental to the  
23 transfer of an improvement upon real estate or the real estate.

24 (7) Gross receipts includes the sale of any building materials  
25 annexed to real estate by a person electing to be taxed as a retailer  
26 pursuant to subdivision (1) of section 77-2701.10.

27 (8) Gross receipts includes the sale of and recharge of prepaid  
28 calling service and prepaid wireless calling service.

29 (9) Gross receipts includes the retail sale of digital audio works,  
30 digital audiovisual works, digital codes, and digital books delivered  
31 electronically if the products are taxable when delivered on tangible

1 storage media. A sale includes the transfer of a permanent right of use,  
2 the transfer of a right of use that terminates on some condition, and the  
3 transfer of a right of use conditioned upon the receipt of continued  
4 payments.

5 (10) Gross receipts does not include:

6 (a) The amount of any rebate granted by a motor vehicle or motorboat  
7 manufacturer or dealer at the time of sale of the motor vehicle or  
8 motorboat, which rebate functions as a discount from the sales price of  
9 the motor vehicle or motorboat; or

10 (b) The price of property or services returned or rejected by  
11 customers when the full sales price is refunded either in cash or credit.

12 Sec. 3. Section 77-2704.10, Revised Statutes Cumulative Supplement,  
13 2016, is amended to read:

14 77-2704.10 Sales and use taxes shall not be imposed on the gross  
15 receipts from the sale, lease, or rental of and the storage, use, or  
16 other consumption in this state of:

17 ~~(1) Prepared food and food and food ingredients served by public or~~  
18 ~~private schools, school districts, student organizations, or parent-~~  
19 ~~teacher associations pursuant to an agreement with the proper school~~  
20 ~~authorities, in an elementary or secondary school or at any institution~~  
21 ~~of higher education, public or private, during the regular school day or~~  
22 ~~at an approved function of any such school or institution. This exemption~~  
23 ~~does not apply to sales by an institution of higher education at any~~  
24 ~~facility or function which is open to the general public;~~

25 (1) ~~(2)~~ Prepared food and food and food ingredients sold by a church  
26 at a function of such church;

27 (2) ~~(3)~~ Prepared food and food and food ingredients served to  
28 patients and inmates of hospitals and other institutions licensed by the  
29 state for the care of human beings;

30 (3) ~~(4)~~ Prepared food and food and food ingredients sold at a  
31 political event by ballot question committees, candidate committees,

1 independent committees, and political party committees as defined in the  
2 Nebraska Political Accountability and Disclosure Act—~~or fees and~~  
3 ~~admissions charged for such political event;~~

4 (4) ~~(5)~~ Prepared food and food and food ingredients sold to the  
5 elderly, handicapped, or recipients of Supplemental Security Income by an  
6 organization that actually accepts electronic benefits transfer under  
7 regulations issued by the United States Department of Agriculture  
8 although it is not necessary for the purchaser to use electronic benefits  
9 transfer to pay for the prepared food and food and food ingredients;

10 (5) ~~(6)~~ Fees and admissions charged by a public or private  
11 elementary or secondary school and fees and admissions charged by a  
12 school district, student organization, or parent-teacher association,  
13 pursuant to an agreement with the proper school authorities, in a public  
14 or private elementary or secondary school during the regular school day  
15 or at an approved function of any such school;

16 (6) ~~(7)~~ Fees and admissions charged for participants in any activity  
17 provided by a nonprofit organization that is exempt from income tax under  
18 section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which  
19 organization conducts statewide sport events with multiple sports for  
20 both adults and youth; and

21 (7) ~~(8)~~ Fees and admissions charged for participants in any activity  
22 provided by a nonprofit organization that is exempt from income tax under  
23 section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which  
24 organization is affiliated with a national organization, primarily  
25 dedicated to youth development and healthy living, and offers sports  
26 instruction and sports leagues or sports events in multiple sports.

27 Sec. 4. Section 77-2704.24, Revised Statutes Cumulative Supplement,  
28 2016, is amended to read:

29 77-2704.24 (1) Sales and use taxes shall not be imposed on the gross  
30 receipts from the sale, lease, or rental of and the storage, use, or  
31 other consumption in this state of food or food ingredients except for

1 prepared food and food sold through vending machines.

2 (2) For purposes of this section:

3 (a) Alcoholic beverages means beverages that are suitable for human  
4 consumption and contain one-half of one percent or more of alcohol by  
5 volume;

6 (b) Dietary supplement means any product, other than tobacco,  
7 intended to supplement the diet that contains one or more of the  
8 following dietary ingredients: (i) A vitamin, (ii) a mineral, (iii) an  
9 herb or other botanical, (iv) an amino acid, (v) a dietary substance for  
10 use by humans to supplement the diet by increasing the total dietary  
11 intake, or (vi) a concentrate, metabolite, constituent, extract, or  
12 combination of any ingredients described in subdivisions (2)(b)(i)  
13 through (v) of this section; that is intended for ingestion in tablet,  
14 capsule, powder, softgel, gelcap, or liquid form or, if not intended for  
15 ingestion in such a form, is not presented as conventional food and is  
16 not represented for use as a sole item of a meal or of the diet; and that  
17 is required to be labeled as a dietary supplement, identifiable by the  
18 supplemental facts box found on the label and as required pursuant to 21  
19 C.F.R. 101.36, as such regulation existed on January 1, 2003;

20 (c) Food and food ingredients means substances, whether in liquid,  
21 concentrated, solid, frozen, dried, or dehydrated form, that are sold for  
22 ingestion or chewing by humans and are consumed for their taste or  
23 nutritional value. Food and food ingredients does not include alcoholic  
24 beverages, dietary supplements, ~~or~~ tobacco, soft drinks, candy, or  
25 bottled water;

26 (d) Food sold through vending machines means food that is dispensed  
27 from a machine or other mechanical device that accepts payment;

28 (e) Prepared food means:

29 (i) Food sold with eating utensils provided by the seller, including  
30 plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate  
31 does not include a container or packaging used to transport the food; or

1 (ii) Two or more food ingredients mixed or combined by the seller  
2 for sale as a single item and food sold in a heated state or heated by  
3 the seller, except:

4 (A) Food that is only cut, repackaged, or pasteurized by the seller;

5 (B) Eggs, fish, meat, poultry, and foods containing these raw animal  
6 foods requiring cooking by the consumer as recommended by the federal  
7 Food and Drug Administration in chapter 3, part 401.11 of its Food Code,  
8 as it existed on January 1, 2003, so as to prevent food borne illnesses;

9 (C) Food sold by a seller whose proper primary North American  
10 Industry Classification System classification is manufacturing in sector  
11 311, except subsector 3118, bakeries;

12 (D) Food sold in an unheated state by weight or volume as a single  
13 item;

14 (E) Bakery items, including bread, rolls, buns, biscuits, bagels,  
15 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,  
16 muffins, bars, cookies, and tortillas; and

17 (F) Food that ordinarily requires additional cooking to finish the  
18 product to its desired final condition; and

19 (f) Tobacco means cigarettes, cigars, chewing or pipe tobacco, or  
20 any other item that contains tobacco.

21 Sec. 5. Section 77-2715.09, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 77-2715.09 (1) Subject to subsection (4) of this section, every  
24 ~~Every~~ resident individual may elect under this section to subtract from  
25 federal adjusted gross income, or for trusts qualifying under subdivision  
26 (2)(c) of this section from taxable income, the extraordinary dividends  
27 paid on and the capital gain from the sale or exchange of capital stock  
28 of a corporation acquired by the individual (a) on account of employment  
29 by such corporation or (b) while employed by such corporation.

30 (2)(a) Each individual shall be entitled to one election under  
31 subsection (1) of this section during his or her lifetime for the capital

1 stock of one corporation.

2 (b) The election shall apply to subsequent extraordinary dividends  
3 paid and sales and exchanges in any taxable year if the dividend is  
4 received on, or the sale or exchange is of, capital stock in the same  
5 corporation and such capital stock was acquired as provided in subsection  
6 (1) of this section.

7 (c) After the individual makes an election, such election shall  
8 apply to extraordinary dividends paid on, and the sale or exchange of,  
9 capital stock of the corporation transferred by inter vivos gift from the  
10 individual to his or her spouse or issue or a trust for the benefit of  
11 the individual's spouse or issue if such capital stock was acquired as  
12 provided in subsection (1) of this section. This subdivision shall apply,  
13 in the case of the spouse, only if the spouse was married to such  
14 individual on the date of the extraordinary dividend or sale or exchange  
15 or the date of death of the individual.

16 (d) If the individual dies without making an election, the surviving  
17 spouse or, if there is no surviving spouse, the oldest surviving issue  
18 may make the election for capital stock that would have qualified under  
19 subdivision (c) of this subsection.

20 (3) An election under subsection (1) of this section shall be made  
21 by including a written statement with the taxpayer's Nebraska income tax  
22 return or an amended return for the taxable year for which the election  
23 is made. The written statement shall identify the corporation that issued  
24 the stock and the grounds for the election under this section and shall  
25 state that the taxpayer elects to have this section apply.

26 (4) The subtractions for extraordinary dividends and capital gains  
27 authorized in this section shall not be allowed for taxable years  
28 beginning or deemed to begin on or after January 1, 2018, under the  
29 Internal Revenue Code of 1986, as amended.

30 Sec. 6. Section 77-2716, Revised Statutes Cumulative Supplement,  
31 2016, is 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) For taxable years beginning or deemed to begin before January 1,  
29 2018, under the Internal Revenue Code of 1986, as amended, federal  
30 ~~Federal~~ adjusted gross income, or, for a fiduciary, federal taxable  
31 income shall be modified to exclude the portion of the income or loss

1 received from a small business corporation with an election in effect  
2 under subchapter S of the Internal Revenue Code or from a limited  
3 liability company organized pursuant to the Nebraska Uniform Limited  
4 Liability Company Act that is not derived from or connected with Nebraska  
5 sources as determined in section 77-2734.01.

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

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

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

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

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

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

1           (8)(a) Federal adjusted gross income or, for corporations and  
2 fiduciaries, federal taxable income shall be reduced, to the extent  
3 included, by income from interest, earnings, and state contributions  
4 received from the Nebraska educational savings plan trust created in  
5 sections 85-1801 to 85-1814 and any account established under the  
6 achieving a better life experience program as provided in sections  
7 77-1401 to 77-1409.

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

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

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

30           (ii) The amount of any withdrawals by the owner of an account  
31 established under the achieving a better life experience program as

1 provided in sections 77-1401 to 77-1409 for nonqualified expenses to the  
2 extent previously deducted under subdivision (8)(b) of this section.

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

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

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

24 (d) The amount of bonus depreciation added to federal adjusted gross  
25 income or, for corporations and fiduciaries, federal taxable income by  
26 this subsection shall be subtracted in a later taxable year. Twenty  
27 percent of the total amount of bonus depreciation added back by this  
28 subsection for tax years beginning or deemed to begin before January 1,  
29 2003, under the Internal Revenue Code of 1986, as amended, may be  
30 subtracted in the first taxable year beginning or deemed to begin on or  
31 after January 1, 2005, under the Internal Revenue Code of 1986, as

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

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

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

29 (b) For taxable years beginning or deemed to begin before January 1,  
30 2018, under the Internal Revenue Code of 1986, as amended, federal  
31 adjusted gross income shall be increased by the withdrawals made as a

1 participant in the Nebraska long-term care savings plan under the act by  
2 a person who is not a qualified individual or for any reason other than  
3 transfer of funds to a spouse, long-term care expenses, long-term care  
4 insurance premiums, or death of the participant, including withdrawals  
5 made by reason of cancellation of the participation agreement, to the  
6 extent previously deducted as a contribution or as investment earnings.

7 (12) There shall be added to federal adjusted gross income for  
8 individuals, estates, and trusts any amount taken as a credit for  
9 franchise tax paid by a financial institution under sections 77-3801 to  
10 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

18 (b) For taxpayers filing any other return, federal adjusted gross  
19 income is forty-three thousand dollars or less.

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

1 retirement benefit means retirement benefits that are periodic payments  
2 attributable to service in the uniformed services of the United States  
3 for personal services performed by an individual prior to his or her  
4 retirement.

5 Sec. 7. Section 77-2734.01, Revised Statutes Cumulative Supplement,  
6 2016, is amended to read:

7 77-2734.01 (1)(a) For taxable years beginning or deemed to begin  
8 before January 1, 2018, under the Internal Revenue Code of 1986, as  
9 amended, residents ~~(1) Residents~~ of Nebraska who are shareholders of a  
10 small business corporation having an election in effect under subchapter  
11 S of the Internal Revenue Code or who are members of a limited liability  
12 company organized pursuant to the Nebraska Uniform Limited Liability  
13 Company Act shall include in their Nebraska taxable income, to the extent  
14 includable in federal gross income, their proportionate share of such  
15 corporation's or limited liability company's federal income adjusted  
16 pursuant to this section. Income or loss from such corporation or limited  
17 liability company conducting a business, trade, profession, or occupation  
18 shall be included in the Nebraska taxable income of a shareholder or  
19 member who is a resident of this state to the extent of such  
20 shareholder's or member's proportionate share of the net income or loss  
21 from the conduct of such business, trade, profession, or occupation  
22 within this state, determined under subsection (2) of this section.

23 (b) For taxable years beginning or deemed to begin on or after  
24 January 1, 2018, under the Internal Revenue Code of 1986, as amended,  
25 residents of Nebraska who are shareholders of a small business  
26 corporation having an election in effect under subchapter S of the  
27 Internal Revenue Code or who are members of a limited liability company  
28 organized pursuant to the Nebraska Uniform Limited Liability Company Act  
29 shall include in their Nebraska taxable income, to the extent includable  
30 in federal gross income, their proportionate share of such corporation's  
31 or limited liability company's federal income without any adjustments

1 pursuant to this section.

2 (c) For all taxable years, a A resident of Nebraska shall include in  
3 Nebraska taxable income fair compensation for services rendered to such  
4 corporation or limited liability company. Compensation actually paid  
5 shall be presumed to be fair unless it is apparent to the Tax  
6 Commissioner that such compensation is materially different from fair  
7 value for the services rendered or has been manipulated for tax avoidance  
8 purposes.

9 (2) The income of any small business corporation having an election  
10 in effect under subchapter S of the Internal Revenue Code or limited  
11 liability company organized pursuant to the Nebraska Uniform Limited  
12 Liability Company Act that is derived from or connected with Nebraska  
13 sources shall be determined in the following manner:

14 (a) If the small business corporation is a member of a unitary  
15 group, the small business corporation shall be deemed to be doing  
16 business within this state if any part of its income is derived from  
17 transactions with other members of the unitary group doing business  
18 within this state, and such corporation shall apportion its income by  
19 using the apportionment factor determined for the entire unitary group,  
20 including the small business corporation, under sections 77-2734.05 to  
21 77-2734.15;

22 (b) If the small business corporation or limited liability company  
23 is not a member of a unitary group and is subject to tax in another  
24 state, it shall apportion its income under sections 77-2734.05 to  
25 77-2734.15; and

26 (c) If the small business corporation or limited liability company  
27 is not subject to tax in another state, all of its income is derived from  
28 or connected with Nebraska sources.

29 (3) Nonresidents of Nebraska who are shareholders of such  
30 corporations or members of such limited liability companies shall file a  
31 Nebraska income tax return and shall include in Nebraska adjusted gross

1 income their proportionate share of the corporation's or limited  
2 liability company's Nebraska income as determined under subsection (2) of  
3 this section.

4 (4) The nonresident shareholder or member shall execute and forward  
5 to the corporation or limited liability company before the filing of the  
6 corporation's or limited liability company's return an agreement which  
7 states he or she will file a Nebraska income tax return and pay the tax  
8 on the income derived from or connected with sources in this state, and  
9 such agreement shall be attached to the corporation's or limited  
10 liability company's Nebraska return for such taxable year.

11 (5) For taxable years beginning or deemed to begin before January 1,  
12 2013, in the absence of the nonresident shareholder's or member's  
13 executed agreement being attached to the Nebraska return, the corporation  
14 or limited liability company shall remit with the return an amount equal  
15 to the highest individual income tax rate determined under section  
16 77-2715.02 multiplied by the nonresident shareholder's or member's share  
17 of the corporation's or limited liability company's income which was  
18 derived from or attributable to this state. For taxable years beginning  
19 or deemed to begin on or after January 1, 2013, in the absence of the  
20 nonresident shareholder's or member's executed agreement being attached  
21 to the Nebraska return, the corporation or limited liability company  
22 shall remit with the return an amount equal to the highest individual  
23 income tax rate determined under section 77-2715.03 multiplied by the  
24 nonresident shareholder's or member's share of the corporation's or  
25 limited liability company's income which was derived from or attributable  
26 to this state. The amount remitted shall be allowed as a credit against  
27 the Nebraska income tax liability of the shareholder or member.

28 (6) The Tax Commissioner may allow a nonresident individual  
29 shareholder or member to not file a Nebraska income tax return if the  
30 nonresident individual shareholder's or member's only source of Nebraska  
31 income was his or her share of the small business corporation's or

1 limited liability company's income which was derived from or attributable  
2 to sources within this state, the nonresident did not file an agreement  
3 to file a Nebraska income tax return, and the small business corporation  
4 or limited liability company has remitted the amount required by  
5 subsection (5) of this section on behalf of such nonresident individual  
6 shareholder or member. The amount remitted shall be retained in  
7 satisfaction of the Nebraska income tax liability of the nonresident  
8 individual shareholder or member.

9 (7) A small business corporation or limited liability company return  
10 shall be filed only if one or more of the shareholders of the corporation  
11 or members of the limited liability company are not residents of the  
12 State of Nebraska or, for taxable years beginning or deemed to begin  
13 before January 1, 2018, if such corporation or limited liability company  
14 has income derived from sources outside this state.

15 (8) For purposes of this section, any shareholder or member of the  
16 corporation or limited liability company that is a grantor trust of a  
17 nonresident shall be disregarded and this section shall apply as though  
18 the nonresident grantor was the shareholder or member.

19 Sec. 8. Section 77-27,132, Revised Statutes Cumulative Supplement,  
20 2016, is amended to read:

21 77-27,132 (1) There is hereby created a fund to be designated the  
22 Revenue Distribution Fund which shall be set apart and maintained by the  
23 Tax Commissioner. Revenue not required to be credited to the General Fund  
24 or any other specified fund may be credited to the Revenue Distribution  
25 Fund. Credits and refunds of such revenue shall be paid from the Revenue  
26 Distribution Fund. The balance of the amount credited, after credits and  
27 refunds, shall be allocated as provided by the statutes creating such  
28 revenue.

29 (2) The Tax Commissioner shall pay to a depository bank designated  
30 by the State Treasurer all amounts collected under the Nebraska Revenue  
31 Act of 1967. The Tax Commissioner shall present to the State Treasurer

1 bank receipts showing amounts so deposited in the bank, and of the  
2 amounts so deposited the State Treasurer shall:

3 (a) For transactions occurring on or after October 1, 2014, and  
4 before October 1, 2019, credit to the Game and Parks Commission Capital  
5 Maintenance Fund all of the proceeds of the sales and use taxes imposed  
6 pursuant to section 77-2703 on the sale or lease of motorboats as defined  
7 in section 37-1204, personal watercraft as defined in section 37-1204.01,  
8 all-terrain vehicles as defined in section 60-103, and utility-type  
9 vehicles as defined in section 60-135.01;

10 (b) Credit to the Highway Trust Fund all of the proceeds of the  
11 sales and use taxes derived from the sale or lease for periods of more  
12 than thirty-one days of motor vehicles, trailers, and semitrailers,  
13 except that the proceeds equal to any sales tax rate provided for in  
14 section 77-2701.02 that is in excess of five percent derived from the  
15 sale or lease for periods of more than thirty-one days of motor vehicles,  
16 trailers, and semitrailers shall be credited to the Highway Allocation  
17 Fund;

18 (c) For transactions occurring on or after July 1, 2013, and before  
19 July 1, 2033, of the proceeds of the sales and use taxes derived from  
20 transactions other than those listed in subdivisions (2)(a) and (b) of  
21 this section from a sales tax rate of one-quarter of one percent, credit  
22 monthly eighty-five percent to the State Highway Capital Improvement Fund  
23 and fifteen percent to the Highway Allocation Fund;~~and~~

24 (d) Of the proceeds of the sales and use taxes derived from  
25 transactions other than those listed in subdivisions (2)(a) and (b) of  
26 this section, credit to the Property Tax Credit Cash Fund the amount  
27 certified under section 77-27,237, if any such certification is made;  
28 and -

29 (e) Credit to the Property Tax Credit Cash Fund an amount equal to  
30 the net increase in state income tax and sales and use tax revenue  
31 received as a result of the changes made by this legislative bill. Such

1 amount shall be determined annually by the Tax Commissioner.

2       The balance of all amounts collected under the Nebraska Revenue Act  
3 of 1967 shall be credited to the General Fund.

4       Sec. 20. Sections 1, 2, 3, 4, 5, 6, 7, 8, 21, and 23 of this act  
5 become operative on January 1, 2018. The other sections of this act  
6 become operative on their effective date.

7       Sec. 21. Original section 77-2715.09, Reissue Revised Statutes of  
8 Nebraska, and sections 77-382, 77-2701.16, 77-2704.10, 77-2704.24,  
9 77-2716, 77-2734.01, and 77-27,132, Revised Statutes Cumulative  
10 Supplement, 2016, are repealed.

11       Sec. 23. The following sections are outright repealed: Sections  
12 77-2704.14 and 77-2704.52, Reissue Revised Statutes of Nebraska, and  
13 sections 77-2704.56, 77-2704.65, and 77-2704.67, Revised Statutes  
14 Cumulative Supplement, 2016.

15       2. Renumber the remaining sections and correct internal references  
16 accordingly.