

AMENDMENTS TO LB461

(Amendments to Standing Committee amendments, AM954)

Introduced by Briese, 41.

1 1. Insert the following new sections:

2 Sec. 15. 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. 21. 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. 22. 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. 23. 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. 27. Section 77-2715.09, Reissue Revised Statutes of Nebraska,
22 is 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. 28. 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. 30. 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. 32. 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 Excess Revenue Property Tax Credit Fund an amount
30 equal to the net increase in state income tax and sales and use tax
31 revenue received as a result of the changes made by this legislative

1 bill. Such 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. 36. (1) The Excess Revenue Property Tax Credit Fund is
5 created. The fund shall consist of funds credited under section 77-27,132
6 and shall be used to provide a property tax credit to owners of real
7 property. Any money in the fund available for investment shall be
8 invested by the state investment officer pursuant to the Nebraska Capital
9 Expansion Act and the Nebraska State Funds Investment Act.

10 (2) To determine the amount of the property tax credit, the county
11 treasurer shall multiply the amount disbursed to the county under
12 subsection (4) of this section by the ratio of the real property
13 valuation of the parcel to the total real property valuation in the
14 county. The amount determined shall be the property tax credit for the
15 property. The property tax credit shall appear on the property tax
16 statement.

17 (3) If the real property owner qualifies for a homestead exemption
18 under sections 77-3501 to 77-3529, the owner shall also be qualified for
19 the property tax credit provided in this section to the extent of any
20 remaining liability after calculation of the relief provided by the
21 homestead exemption. If the credit results in a property tax liability on
22 the homestead that is less than zero, the amount of the credit which
23 cannot be used by the taxpayer shall be returned to the State Treasurer
24 by July 1 of the year the amount disbursed to the county was disbursed.
25 The State Treasurer shall immediately credit any funds returned under
26 this subsection to the Excess Revenue Property Tax Credit Fund.

27 (4) The amount disbursed to each county shall be equal to the amount
28 in the Excess Revenue Property Tax Credit Fund multiplied by the ratio of
29 the real property valuation in the county to the real property valuation
30 in the state. By September 15, the Property Tax Administrator shall
31 determine the amount to be disbursed under this subsection to each county

1 and certify such amounts to the State Treasurer and to each county. The
2 disbursements to the counties shall occur in two equal payments, the
3 first on or before January 31 and the second on or before April 1. After
4 retaining one percent of the receipts for costs, the county treasurer
5 shall allocate the remaining receipts to each taxing unit levying taxes
6 on taxable property in the tax district in which the real property is
7 located in the same proportion that the levy of such taxing unit bears to
8 the total levy on taxable property of all the taxing units in the tax
9 district in which the real property is located.

10 2. On page 53, line 16, strike "and" and after the last comma insert
11 "77-2704.14, and 77-2704.52,"; and in line 17 strike "and 77-1363" and
12 insert "77-1363, 77-2704.56, 77-2704.65, and 77-2704.67".

13 3. Renumber the remaining sections and correct internal references
14 accordingly.

15 4. Correct the operative date and repealer sections so that the
16 sections added by this amendment become operative on January 1, 2018.