AMENDMENTS TO LB64

(Amendments to Final Reading copy)

Introduced by Linehan, 39.

1. Strike section 1 and insert the following new section:

Section 1. Section 77-2716, Revised Statutes Cumulative Supplement, 2020, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) For taxpayers filing a married filing joint return, federal 
adjusted gross income is fifty-eight thousand dollars or less; or
(ii) For taxpayers filing any other return, federal adjusted gross income is forty-three thousand dollars or less.

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

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

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

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

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

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

(iv) Forty percent for taxable years beginning or deemed to begin on or after January 1, 2024, and before January 1, 2025, under the Internal Revenue Code of 1986, as amended;
(v) Fifty percent for taxable years beginning or deemed to begin on or after January 1, 2025, and before January 1, 2026, under the Internal Revenue Code of 1986, as amended;

(vi) Sixty percent for taxable years beginning or deemed to begin on or after January 1, 2026, and before January 1, 2027, under the Internal Revenue Code of 1986, as amended;

(vii) Seventy percent for taxable years beginning or deemed to begin on or after January 1, 2027, and before January 1, 2028, under the Internal Revenue Code of 1986, as amended;

(viii) Eighty percent for taxable years beginning or deemed to begin on or after January 1, 2028, and before January 1, 2029, under the Internal Revenue Code of 1986, as amended;

(ix) Ninety percent for taxable years beginning or deemed to begin on or after January 1, 2029, and before January 1, 2030, under the Internal Revenue Code of 1986, as amended; and

(x) One hundred percent for taxable years beginning or deemed to begin on or after January 1, 2030, under the Internal Revenue Code of 1986, as amended.

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

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

(d) It is the intent of the Legislature to:

(i) Monitor the projected fiscal impact to the state resulting from the reductions to federal adjusted gross income allowed to taxpayers under subdivisions (14)(a)(vi) to (x) of this section; and

(ii) Enact legislation to change subdivisions (14)(a)(vi) to (x) of
this section if the Legislature determines that such changes are
necessary to protect the fiscal soundness of the state.

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

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

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

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