

AMENDMENTS TO LB64

(Amendments to Final Reading copy)

Introduced by Linehan, 39.

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

2 Section 1. Section 77-2716, Revised Statutes Cumulative Supplement,
3 2020, is amended to read:

4 77-2716 (1) The following adjustments to federal adjusted gross
5 income or, for corporations and fiduciaries, federal taxable income shall
6 be made for interest or dividends received:

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

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

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

22 (c) There shall be added interest or dividends received by the owner
23 of obligations of the District of Columbia, other states of the United
24 States, or their political subdivisions, authorities, commissions, or
25 instrumentalities to the extent excluded in the computation of gross
26 income for federal income tax purposes except that such interest or

1 dividends shall not be added if received by a corporation which is a
2 regulated investment company;

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

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

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

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

30 (3) There shall be subtracted from federal adjusted gross income for
31 all taxable years beginning on or after January 1, 1987, the amount of

1 any state income tax refund to the extent such refund was deducted under
2 the Internal Revenue Code, was not allowed in the computation of the tax
3 due under the Nebraska Revenue Act of 1967, and is included in federal
4 adjusted gross income.

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

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

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

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

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

30 (c) The result of the calculation in subdivision (b) of this
31 subsection shall be subtracted from the amount of federal taxable income

1 used in subdivision (a) of this subsection. The result of such
2 calculation, if greater than zero, shall be subtracted from federal
3 taxable income.

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

7 (8)(a) Federal adjusted gross income or, for corporations and
8 fiduciaries, federal taxable income shall be reduced, to the extent
9 included, by income from interest, earnings, and state contributions
10 received from the Nebraska educational savings plan trust created in
11 sections 85-1801 to 85-1817 and any account established under the
12 achieving a better life experience program as provided in sections
13 77-1401 to 77-1409.

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

30 (c) For taxable years beginning or deemed to begin on or after
31 January 1, 2021, under the Internal Revenue Code of 1986, as amended,

1 federal adjusted gross income shall be reduced, to the extent included in
2 the adjusted gross income of an individual, by the amount of any
3 contribution made by the individual's employer into an account under the
4 Nebraska educational savings plan trust owned by the individual, not to
5 exceed five thousand dollars per married filing separate return or ten
6 thousand dollars for any other return.

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

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

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

17 (9)(a) For income tax returns filed after September 10, 2001, for
18 taxable years beginning or deemed to begin before January 1, 2006, under
19 the Internal Revenue Code of 1986, as amended, federal adjusted gross
20 income or, for corporations and fiduciaries, federal taxable income shall
21 be increased by eighty-five percent of any amount of any federal bonus
22 depreciation received under the federal Job Creation and Worker
23 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,
24 under section 168(k) or section 1400L of the Internal Revenue Code of
25 1986, as amended, for assets placed in service after September 10, 2001,
26 and before December 31, 2005.

27 (b) For a partnership, limited liability company, cooperative,
28 including any cooperative exempt from income taxes under section 521 of
29 the Internal Revenue Code of 1986, as amended, limited cooperative
30 association, subchapter S corporation, or joint venture, the increase
31 shall be distributed to the partners, members, shareholders, patrons, or

1 beneficiaries in the same manner as income is distributed for use against
2 their income tax liabilities.

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

7 (d) The amount of bonus depreciation added to federal adjusted gross
8 income or, for corporations and fiduciaries, federal taxable income by
9 this subsection shall be subtracted in a later taxable year. Twenty
10 percent of the total amount of bonus depreciation added back by this
11 subsection for tax years beginning or deemed to begin before January 1,
12 2003, under the Internal Revenue Code of 1986, as amended, may be
13 subtracted in the first taxable year beginning or deemed to begin on or
14 after January 1, 2005, under the Internal Revenue Code of 1986, as
15 amended, and twenty percent in each of the next four following taxable
16 years. Twenty percent of the total amount of bonus depreciation added
17 back by this subsection for tax years beginning or deemed to begin on or
18 after January 1, 2003, may be subtracted in the first taxable year
19 beginning or deemed to begin on or after January 1, 2006, under the
20 Internal Revenue Code of 1986, as amended, and twenty percent in each of
21 the next four following taxable years.

22 (10) For taxable years beginning or deemed to begin on or after
23 January 1, 2003, and before January 1, 2006, under the Internal Revenue
24 Code of 1986, as amended, federal adjusted gross income or, for
25 corporations and fiduciaries, federal taxable income shall be increased
26 by the amount of any capital investment that is expensed under section
27 179 of the Internal Revenue Code of 1986, as amended, that is in excess
28 of twenty-five thousand dollars that is allowed under the federal Jobs
29 and Growth Tax Act of 2003. Twenty percent of the total amount of
30 expensing added back by this subsection for tax years beginning or deemed
31 to begin on or after January 1, 2003, may be subtracted in the first

1 taxable year beginning or deemed to begin on or after January 1, 2006,
2 under the Internal Revenue Code of 1986, as amended, and twenty percent
3 in each of the next four following tax years.

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

12 (b) For taxable years beginning or deemed to begin before January 1,
13 2018, under the Internal Revenue Code of 1986, as amended, federal
14 adjusted gross income shall be increased by the withdrawals made as a
15 participant in the Nebraska long-term care savings plan under the act by
16 a person who is not a qualified individual or for any reason other than
17 transfer of funds to a spouse, long-term care expenses, long-term care
18 insurance premiums, or death of the participant, including withdrawals
19 made by reason of cancellation of the participation agreement, to the
20 extent previously deducted as a contribution or as investment earnings.

21 (12) There shall be added to federal adjusted gross income for
22 individuals, estates, and trusts any amount taken as a credit for
23 franchise tax paid by a financial institution under sections 77-3801 to
24 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

3 (b) For taxable years beginning or deemed to begin on or after
4 January 1, 2020, under the Internal Revenue Code of 1986, as amended, the
5 Tax Commissioner shall adjust the dollar amounts provided in subdivisions
6 (13)(a)(i) and (ii) of this section by the same percentage used to adjust
7 individual income tax brackets under subsection (3) of section
8 77-2715.03.

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

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

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

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

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

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

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

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

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

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

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

16 (x) One hundred percent for taxable years beginning or deemed to
17 begin on or after January 1, 2030, under the Internal Revenue Code of
18 1986, as amended.

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

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

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

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

31 (ii) Enact legislation to change subdivisions (14)(a)(vi) to (x) of

1 this section if the Legislature determines that such changes are
2 necessary to protect the fiscal soundness of the state.

3 ~~(15)(a)~~ ~~(14)(a)~~ For taxable years beginning or deemed to begin on or
4 after January 1, 2015, and before January 1, 2022, under the Internal
5 Revenue Code of 1986, as amended, an individual may make a one-time
6 election within two calendar years after the date of his or her
7 retirement from the military to exclude income received as a military
8 retirement benefit by the individual to the extent included in federal
9 adjusted gross income and as provided in this subdivision. The individual
10 may elect to exclude forty percent of his or her military retirement
11 benefit income for seven consecutive taxable years beginning with the
12 year in which the election is made or may elect to exclude fifteen
13 percent of his or her military retirement benefit income for all taxable
14 years beginning with the year in which he or she turns sixty-seven years
15 of age.

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

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

25 ~~(16)~~ ~~(15)~~ For taxable years beginning or deemed to begin on or after
26 January 1, 2021, under the Internal Revenue Code of 1986, as amended,
27 federal adjusted gross income shall be reduced by the amount received as
28 a Segal AmeriCorps Education Award, to the extent such amount is included
29 in federal adjusted gross income.