

AMENDMENTS TO LB34

(Amendments to Final Reading copy)

Introduced by Wayne, 13.

1 1. Insert the following new sections:

2 Sec. 18. Section 53-160, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 53-160 (1) For the purpose of raising revenue, a tax is imposed upon
5 the privilege of engaging in business as a manufacturer or a wholesaler
6 at a rate of thirty-one cents per gallon on all beer; ninety-five cents
7 per gallon for wine, except for wines produced and released from bond in
8 farm wineries; six cents per gallon for wine produced and released from
9 bond in farm wineries; and four ~~three~~ dollars and seventy-five cents per
10 gallon on alcohol and spirits manufactured and sold by such manufacturer
11 or shipped for sale in this state by such wholesaler in the course of
12 such business. The gallonage tax imposed by this subsection shall be
13 imposed only on alcoholic liquor upon which a federal excise tax is
14 imposed.

15 (2) Manufacturers or wholesalers of alcoholic liquor shall be exempt
16 from the payment of the gallonage tax on such alcoholic liquor upon
17 satisfactory proof, including bills of lading furnished to the commission
18 by affidavit or otherwise as the commission may require, that such
19 alcoholic liquor was manufactured in this state but shipped out of the
20 state for sale and consumption outside this state.

21 (3) Dry wines or fortified wines manufactured or shipped into this
22 state solely and exclusively for sacramental purposes and uses shall not
23 be subject to the gallonage tax.

24 (4) The gallonage tax shall not be imposed upon any alcoholic
25 liquor, whether manufactured in or shipped into this state, when sold to
26 a licensed nonbeverage user for use in the manufacture of any of the

1 following when such products are unfit for beverage purposes: Patent and
2 proprietary medicines and medicinal, antiseptic, and toilet preparations;
3 flavoring extracts, syrups, food products, and confections or candy;
4 scientific, industrial, and chemical products, except denatured alcohol;
5 or products for scientific, chemical, experimental, or mechanical
6 purposes.

7 (5) The gallonage tax shall not be imposed upon the privilege of
8 engaging in any business in interstate commerce or otherwise, which
9 business may not, under the Constitution and statutes of the United
10 States, be made the subject of taxation by this state.

11 (6) The gallonage tax shall be in addition to all other occupation
12 or privilege taxes imposed by this state or by any municipal corporation
13 or political subdivision thereof.

14 (7) The commission shall collect the gallonage tax and shall account
15 for and remit to the State Treasurer at least once each week all money
16 collected pursuant to this section. If any alcoholic liquor manufactured
17 in or shipped into this state is sold to a licensed manufacturer or
18 wholesaler of this state to be used solely as an ingredient in the
19 manufacture of any beverage for human consumption, the tax imposed upon
20 such manufacturer or wholesaler shall be reduced by the amount of the
21 taxes which have been paid as to such alcoholic liquor so used under the
22 Nebraska Liquor Control Act. The net proceeds of all revenue arising
23 under this section shall be credited to the General Fund.

24 Sec. 21. Section 77-382, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 77-382 (1) The department shall prepare a tax expenditure report
27 describing (a) the basic provisions of the Nebraska tax laws, (b) the
28 actual or estimated revenue loss caused by the exemptions, deductions,
29 exclusions, deferrals, credits, and preferential rates in effect on July
30 1 of each year and allowed under Nebraska's tax structure and in the
31 property tax, (c) the actual or estimated revenue loss caused by failure

1 to impose sales and use tax on services purchased for nonbusiness use,
2 and (d) the elements which make up the tax base for state and local
3 income, including income, sales and use, property, and miscellaneous
4 taxes.

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

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

17 (b) Business across state lines, which shall include a separate
18 listing for the following items: Property shipped out-of-state;
19 fabrication labor for items to be shipped out-of-state; property to be
20 transported out-of-state; property purchased in other states to be used
21 in Nebraska; aircraft delivery to an out-of-state resident or business;
22 state reciprocal agreements for industrial machinery; and property taxed
23 in another state;

24 (c) Common carrier and logistics, which shall include a separate
25 listing for the following items: Railroad rolling stock and repair parts
26 and services; common or contract carriers and repair parts and services;
27 common or contract carrier accessories; and common or contract carrier
28 safety equipment;

29 (d) Consumer goods, which shall include a separate listing for the
30 following items: Motor vehicles and motorboat trade-ins; merchandise
31 trade-ins; certain medical equipment and medicine; newspapers;

1 laundromats; telefloral deliveries; motor vehicle discounts for the
2 disabled; and political campaign fundraisers;

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

6 (f) Food, which shall include a separate listing for the following
7 items: Food for home consumption; Supplemental Nutrition Assistance
8 Program; school lunches; meals sold by hospitals; meals sold by
9 institutions at a flat rate; food for the elderly, handicapped, and
10 Supplemental Security Income recipients; and meals sold by churches;

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

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

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

22 (j) Nonprofits, governments, and exempt entities, which shall
23 include a separate listing for the following items: Purchases by
24 political subdivisions of the state; purchases by churches and nonprofit
25 colleges and medical facilities; purchasing agents for public real estate
26 construction improvements; contractor as purchasing agent for public
27 agencies; ~~Nebraska lottery~~; admissions to school events; sales on Native
28 American Indian reservations; school-supporting fundraisers; fine art
29 purchases by a museum; purchases by the Nebraska State Fair Board;
30 purchases by the Nebraska Investment Finance Authority and licensees of
31 the State Racing and Gaming Commission; purchases by the United States

1 Government; public records; and sales by religious organizations;

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

5 (l) Services purchased for nonbusiness use, which shall include a
6 separate listing for each such service, including, but not limited to,
7 the following items: Motor vehicle cleaning, maintenance, and repair
8 services; ~~cleaning and repair of clothing;~~ cleaning, maintenance, and
9 repair of other tangible personal property other than swimming pool
10 cleaning and maintenance; maintenance, painting, and repair of real
11 property; entertainment admissions; personal care services; lawn care,
12 gardening, and landscaping services; pet-related services; storage and
13 moving services; household utilities; other personal services; taxi,
14 limousine, and other transportation services; legal services; accounting
15 services; other professional services; and other real estate services;
16 and

17 (m) Telecommunications, which shall include a separate listing for
18 the following items: Telecommunications access charges; prepaid calling
19 arrangements; conference bridging services; and nonvoice data services.

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

24 Sec. 26. Section 77-2701.16, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 77-2701.16 (1) Gross receipts means the total amount of the sale or
27 lease or rental price, as the case may be, of the retail sales of
28 retailers.

29 (2) Gross receipts of every person engaged as a public utility
30 specified in this subsection, as a community antenna television service
31 operator, or as a satellite service operator or any person involved in

1 connecting and installing services defined in subdivision (2)(a), (b), or
2 (d) of this section means:

3 (a)(i) In the furnishing of telephone communication service, other
4 than mobile telecommunications service as described in section
5 77-2703.04, the gross income received from furnishing ancillary services,
6 except for conference bridging services, and intrastate
7 telecommunications services, except for value-added, nonvoice data
8 service.

9 (ii) In the furnishing of mobile telecommunications service as
10 described in section 77-2703.04, the gross income received from
11 furnishing mobile telecommunications service that originates and
12 terminates in the same state to a customer with a place of primary use in
13 Nebraska;

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

16 (c)(i) In the furnishing of gas, sewer, water, and electricity
17 service, other than electricity service to a customer-generator as
18 defined in section 70-2002, the gross income received from the furnishing
19 of such services upon billings or statements rendered to consumers for
20 such utility services.

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

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

29 (e) The gross income received from the provision, installation,
30 construction, servicing, or removal of property used in conjunction with
31 the furnishing, installing, or connecting of any public utility services

1 specified in subdivision (2)(a) or (b) of this section or community
2 antenna television service or satellite service specified in subdivision
3 (2)(d) of this section, except when acting as a subcontractor for a
4 public utility, this subdivision does not apply to the gross income
5 received by a contractor electing to be treated as a consumer of building
6 materials under subdivision (2) or (3) of section 77-2701.10 for any such
7 services performed on the customer's side of the utility demarcation
8 point. This subdivision also does not apply to:

9 (i) The gross income received by a political subdivision of the
10 state, an electric cooperative, or an electric membership association for
11 the lease or use of, or by a contractor for the construction of or
12 services provided on, electric generation, transmission, distribution, or
13 street lighting structures or facilities owned by a political subdivision
14 of the state, an electric cooperative, or an electric membership
15 association; or

16 (ii) The gross income received for the lease or use of towers or
17 other structures primarily used in conjunction with the furnishing of (A)
18 Internet access services, (B) agricultural global positioning system
19 locating services, or (C) over-the-air radio and television broadcasting
20 licensed by the Federal Communications Commission, including antennas and
21 studio transmitter link systems. For purposes of this subdivision, studio
22 transmitter link system means a system which serves as a conduit to
23 deliver audio from its origin in a studio to a broadcast transmitter.

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

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

30 (b) In the furnishing of videotapes, movie film, satellite
31 programming, satellite programming service, and satellite television

1 signal descrambling or decoding devices, the gross income received from
2 the license, franchise, or other method establishing the charge.

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

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

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

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

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

16 (e) The gross income received for services of recreational vehicle
17 parks;

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

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

27 (h) The gross income received for detective services; ~~and~~

28 (i) The gross income received for the cleaning of clothing,
29 excluding any amounts exempt pursuant to section 77-2704.14;

30 (j) The gross income received for dating services;

31 (k) The gross income received for swimming pool cleaning and

1 maintenance services;

2 (l) The gross income received for lobbying services; and

3 (m) The gross income received for providing chartered flights.

4 (5) Gross receipts includes the sale of admissions. When an
5 admission to an activity or a membership constituting an admission is
6 combined with the solicitation of a contribution, the portion or the
7 amount charged representing the fair market price of the admission shall
8 be considered a retail sale subject to the tax imposed by section
9 77-2703. The organization conducting the activity shall determine the
10 amount properly attributable to the purchase of the privilege, benefit,
11 or other consideration in advance, and such amount shall be clearly
12 indicated on any ticket, receipt, or other evidence issued in connection
13 with the payment.

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

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

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

22 (9) Gross receipts includes the retail sale of digital audio works,
23 digital audiovisual works, digital codes, and digital books delivered
24 electronically if the products are taxable when delivered on tangible
25 storage media. A sale includes the transfer of a permanent right of use,
26 the transfer of a right of use that terminates on some condition, and the
27 transfer of a right of use conditioned upon the receipt of continued
28 payments.

29 (10) Gross receipts includes any receipts from sales of tangible
30 personal property made over a multivendor marketplace platform that acts
31 as the intermediary by facilitating sales between a seller and the

1 purchaser and that, either directly or indirectly through agreements or
2 arrangements with third parties, collects payment from the purchaser and
3 transmits payment to the seller.

4 (11) Gross receipts does not include:

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

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

11 Sec. 27. Section 77-2704.13, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 77-2704.13 Sales and use taxes shall not be imposed on the gross
14 receipts from the sale, lease, or rental of and the storage, use, or
15 other consumption in this state of:

16 (1) Sales and purchases of electricity, coal, gas, fuel oil, diesel
17 fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood
18 as fuel, and corn as fuel when more than fifty percent of the amount
19 purchased is for use directly in irrigation or farming;

20 (2) Sales and purchases of such energy sources or fuels when more
21 than fifty percent of the amount purchased is for use directly in
22 processing, manufacturing, or refining, in the generation of electricity,
23 in the compression of natural gas for retail sale as a vehicle fuel, or
24 by any hospital. For purposes of this subdivision, processing includes
25 the drying and aerating of grain in commercial agricultural facilities;
26 ~~and~~

27 (3) Sales and purchases of water used for irrigation of agricultural
28 lands and manufacturing purposes; ~~and~~ -

29 (4) Beginning October 1, 2024, sales and purchases of electricity
30 for residential use.

31 Sec. 30. Section 77-4008, Revised Statutes Supplement, 2023, is

1 amended to read:

2 77-4008 (1)(a) A tax is hereby imposed upon the first owner of
3 tobacco products to be sold in this state.

4 (b) The tax on snuff shall be forty-four cents per ounce and a
5 proportionate tax at the like rate on all fractional parts of an ounce.
6 Such tax shall be computed based on the net weight as listed by the
7 manufacturer.

8 (c) The tax on an electronic nicotine delivery system containing
9 three milliliters or less of consumable material shall be five cents per
10 milliliter of consumable material and a proportionate tax at the like
11 rate on all fractional parts of a milliliter.

12 (d) The tax on an electronic nicotine delivery system containing
13 more than three milliliters of consumable material shall be fifteen ~~ten~~
14 percent of (i) the purchase price of such electronic nicotine delivery
15 system paid by the first owner or (ii) the price at which the first owner
16 who made, manufactured, or fabricated the electronic nicotine delivery
17 system sells the item to others.

18 (e) For electronic nicotine delivery systems in the possession of
19 retail dealers for which tax has not been paid, the tax under this
20 subsection shall be imposed at the earliest time the retail dealer: (i)
21 Brings or causes to be brought into the state any electronic nicotine
22 delivery system for sale; (ii) makes, manufactures, or fabricates any
23 electronic nicotine delivery system in this state for sale in this state;
24 or (iii) sells any electronic nicotine delivery system to consumers
25 within this state.

26 (f) The tax on tobacco products other than snuff and electronic
27 nicotine delivery systems shall be twenty percent of (i) the purchase
28 price of such tobacco products paid by the first owner or (ii) the price
29 at which a first owner who made, manufactured, or fabricated the tobacco
30 product sells the items to others.

31 (g) The tax on tobacco products shall be in addition to all other

1 taxes.

2 (2) Whenever any person who is licensed under section 77-4009
3 purchases tobacco products from another person licensed under section
4 77-4009, the seller shall be liable for the payment of the tax.

5 (3) Amounts collected pursuant to this section shall be used and
6 distributed pursuant to section 77-4025.

7 Sec. 35. Sections 18, 21, 26, 27, 30, 38, and 39 of this act become
8 operative on October 1, 2024. The other sections of this act becomes
9 operative on their effective date.

10 Sec. 38. Original sections 53-160 and 77-2704.13, Reissue Revised
11 Statutes of Nebraska, sections 77-382 and 77-2701.16, Revised Statutes
12 Cumulative Supplement, 2022, and section 77-4008, Revised Statutes
13 Supplement, 2023, are repealed.

14 Sec. 39. The following section is outright repealed: Section
15 77-2704.38, Reissue Revised Statutes of Nebraska.

16 2. Renumber the remaining sections accordingly.