

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 560**

Introduced by Cornett, 45.

Read first time January 19, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-2701.16, Reissue Revised Statutes of Nebraska; to  
3 provide for sales and use tax on services as prescribed;  
4 to provide an operative date; and to repeal the original  
5 section.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 77-2701.16, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3                   77-2701.16 (1) Gross receipts means the total amount of  
4 the sale or lease or rental price, as the case may be, of the retail  
5 sales of retailers.

6                   (2) Gross receipts of every person engaged as a public  
7 utility specified in this subsection, as a community antenna  
8 television service operator, or as a satellite service operator or  
9 any person involved in connecting and installing services defined in  
10 subdivision (2)(a), (b), or (d) of this section means:

11                   (a)(i) In the furnishing of telephone communication  
12 service, other than mobile telecommunications service as described in  
13 section 77-2703.04, the gross income received from furnishing  
14 ancillary services, except for conference bridging services, and  
15 intrastate telecommunications services, except for value-added,  
16 nonvoice data service; and

17                   (ii) In the furnishing of mobile telecommunications  
18 service as described in section 77-2703.04, the gross income received  
19 from furnishing mobile telecommunications service that originates and  
20 terminates in the same state to a customer with a place of primary  
21 use in Nebraska;

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

24                   (c) In the furnishing of gas, electricity, sewer, and  
25 water service, the gross income received from the furnishing of such

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

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

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

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

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

1 seller; and

2 (b) In the furnishing of videotapes, movie film,  
3 satellite programming, satellite programming service, and satellite  
4 television signal descrambling or decoding devices, the gross income  
5 received from the license, franchise, or other method establishing  
6 the charge.

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

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

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

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

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

22 (e) The gross income received for services of  
23 recreational vehicle parks;

24 (f) The gross income received for labor for repair or  
25 maintenance services performed with regard to tangible personal

1 property the sale of which would be subject to sales and use taxes,  
2 ~~excluding motor vehicles,~~ except as otherwise provided in section  
3 77-2704.26 or 77-2704.50;

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

9 (h) The gross income received for detective services; ~~-~~

10 (i) The gross income received for personal care services,  
11 including hair care services, personal grooming services, skin care  
12 services, and nail care services;

13 (j) The gross income received for funeral services,  
14 burial services, and cremation services;

15 (k) The gross income received for dating services;

16 (l) The gross income received for cleaning of clothing  
17 and other personal items;

18 (m) The gross income received for storing of tangible  
19 personal property;

20 (n) The gross income received for waste hauling services,  
21 waste disposal services, and recycling services;

22 (o) The gross income received for providing onstreet or  
23 offstreet parking for motor vehicles; and

24 (p) The gross income received for landscaping services,  
25 yard maintenance services, seed planting services, and snow removal

1 services.

2           (5) Gross receipts includes the sale of admissions which  
3 means the right or privilege to have access to or to use a place or  
4 location. An admission includes a membership that allows access to or  
5 use of a place or location, but which membership does not include the  
6 right to hold office, vote, or change the policies of the  
7 organization. When an admission to an activity or a membership  
8 constituting an admission pursuant to this subsection is combined  
9 with the solicitation of a contribution, the portion or the amount  
10 charged representing the fair market price of the admission shall be  
11 considered a retail sale subject to the tax imposed by section  
12 77-2703. The organization conducting the activity shall determine the  
13 amount properly attributable to the purchase of the privilege,  
14 benefit, or other consideration in advance, and such amount shall be  
15 clearly indicated on any ticket, receipt, or other evidence issued in  
16 connection with the payment.

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

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

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

1                   (9) Gross receipts includes the retail sale of digital  
2 audio works, digital audiovisual works, digital codes, and digital  
3 books delivered electronically if the products are taxable when  
4 delivered on tangible storage media. A sale includes the transfer of  
5 a permanent right of use, the transfer of a right of use that  
6 terminates on some condition, and the transfer of a right of use  
7 conditioned upon the receipt of continued payments.

8                   (10) Gross receipts does not include:

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

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

16                   Sec. 2. This act becomes operative on October 1, 2011.

17                   Sec. 3. Original section 77-2701.16, Reissue Revised  
18 Statutes of Nebraska, is repealed.