

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 90

Introduced by Haar, 21.

Read first time January 10, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-2701.16, Revised Statutes Cumulative Supplement, 2012;
3 to change provisions relating to sales and use taxes on
4 the furnishing of electricity service; to provide an
5 operative date; and to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701.16, Revised Statutes
2 Cumulative Supplement, 2012, 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)(i) In the furnishing of gas, ~~electricity~~, ~~sewer~~, ~~and~~
25 water, and electricity service, other than electricity service to a

1 customer-generator as defined in section 70-2002, the gross income
2 received from the furnishing of such services upon billings or
3 statements rendered to consumers for such utility services. †

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

8 (d) In the furnishing of community antenna television
9 service or satellite service, the gross income received from the
10 furnishing of such community antenna television service as regulated
11 under sections 18-2201 to 18-2205 or 23-383 to 23-388 or satellite
12 service; and

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

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

1 property means:

2 (a) In the furnishing of computer software, the gross
3 income received, including the charges for coding, punching, or
4 otherwise producing any computer software and the charges for the
5 tapes, disks, punched cards, or other properties furnished by the
6 seller; and

7 (b) In the furnishing of videotapes, movie film,
8 satellite programming, satellite programming service, and satellite
9 television signal descrambling or decoding devices, the gross income
10 received from the license, franchise, or other method establishing
11 the charge.

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

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

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

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

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

1 party service provider;

2 (e) The gross income received for services of
3 recreational vehicle parks;

4 (f) The gross income received for labor for repair or
5 maintenance services performed with regard to tangible personal
6 property the sale of which would be subject to sales and use taxes,
7 excluding motor vehicles, except as otherwise provided in section
8 77-2704.26 or 77-2704.50;

9 (g) The gross income received for animal specialty
10 services except (i) veterinary services, (ii) specialty services
11 performed on livestock as defined in section 54-183, and (iii) animal
12 grooming performed by a licensed veterinarian or a licensed
13 veterinary technician in conjunction with medical treatment; and

14 (h) The gross income received for detective services.

15 (5) Gross receipts includes the sale of admissions. When
16 an admission to an activity or a membership constituting an admission
17 is combined with the solicitation of a contribution, the portion or
18 the amount charged representing the fair market price of the
19 admission shall be considered a retail sale subject to the tax
20 imposed by section 77-2703. The organization conducting the activity
21 shall determine the amount properly attributable to the purchase of
22 the privilege, benefit, or other consideration in advance, and such
23 amount shall be clearly indicated on any ticket, receipt, or other
24 evidence issued in connection with the payment.

25 (6) Gross receipts includes the sale of live plants

1 incorporated into real estate except when such incorporation is
2 incidental to the transfer of an improvement upon real estate or the
3 real estate.

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

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

9 (9) Gross receipts includes the retail sale of digital
10 audio works, digital audiovisual works, digital codes, and digital
11 books delivered electronically if the products are taxable when
12 delivered on tangible storage media. A sale includes the transfer of
13 a permanent right of use, the transfer of a right of use that
14 terminates on some condition, and the transfer of a right of use
15 conditioned upon the receipt of continued payments.

16 (10) Gross receipts does not include:

17 (a) The amount of any rebate granted by a motor vehicle
18 or motorboat manufacturer or dealer at the time of sale of the motor
19 vehicle or motorboat, which rebate functions as a discount from the
20 sales price of the motor vehicle or motorboat; or

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

24 Sec. 2. This act becomes operative on October 1, 2013.

25 Sec. 3. Original section 77-2701.16, Revised Statutes

1 Cumulative Supplement, 2012, is repealed.