

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 987

Introduced by Pansing Brooks, 28; Crawford, 45.

Read first time January 14, 2020

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-27,132, Reissue Revised Statutes of Nebraska, section 81-1429.02,
- 3 Revised Statutes Cumulative Supplement, 2018, and section
- 4 77-2701.16, Revised Statutes Supplement, 2019; to impose sales and
- 5 use taxes on dating and escort services; to provide for the use of
- 6 the sales and use tax proceeds from dating and escort services; to
- 7 harmonize provisions; to provide an operative date; and to repeal
- 8 the original sections.
- 9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701.16, Revised Statutes Supplement, 2019, is
2 amended to read:

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

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

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

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

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

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

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

1 service;

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

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

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

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

26 (b) In the furnishing of videotapes, movie film, satellite
27 programming, satellite programming service, and satellite television
28 signal descrambling or decoding devices, the gross income received from
29 the license, franchise, or other method establishing the charge.

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

31 (a) The gross income received for building cleaning and maintenance,

1 pest control, and security;

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

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

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

12 (e) The gross income received for services of recreational vehicle
13 parks;

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

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

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

24 (i) The gross income received for dating and escort services.

25 (5) Gross receipts includes the sale of admissions. When an
26 admission to an activity or a membership constituting an admission is
27 combined with the solicitation of a contribution, the portion or the
28 amount charged representing the fair market price of the admission shall
29 be considered a retail sale subject to the tax imposed by section
30 77-2703. The organization conducting the activity shall determine the
31 amount properly attributable to the purchase of the privilege, benefit,

1 or other consideration in advance, and such amount shall be clearly
2 indicated on any ticket, receipt, or other evidence issued in connection
3 with the payment.

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

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

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

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

19 (10) Gross receipts includes any receipts from sales of tangible
20 personal property made over a multivendor marketplace platform that acts
21 as the intermediary by facilitating sales between a seller and the
22 purchaser and that, either directly or indirectly through agreements or
23 arrangements with third parties, collects payment from the purchaser and
24 transmits payment to the seller.

25 (11) Gross receipts does not include:

26 (a) The amount of any rebate granted by a motor vehicle or motorboat
27 manufacturer or dealer at the time of sale of the motor vehicle or
28 motorboat, which rebate functions as a discount from the sales price of
29 the motor vehicle or motorboat; or

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

1 Sec. 2. Section 77-27,132, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-27,132 (1) There is hereby created a fund to be designated the
4 Revenue Distribution Fund which shall be set apart and maintained by the
5 Tax Commissioner. Revenue not required to be credited to the General Fund
6 or any other specified fund may be credited to the Revenue Distribution
7 Fund. Credits and refunds of such revenue shall be paid from the Revenue
8 Distribution Fund. The balance of the amount credited, after credits and
9 refunds, shall be allocated as provided by the statutes creating such
10 revenue.

11 (2) The Tax Commissioner shall pay to a depository bank designated
12 by the State Treasurer all amounts collected under the Nebraska Revenue
13 Act of 1967. The Tax Commissioner shall present to the State Treasurer
14 bank receipts showing amounts so deposited in the bank, and of the
15 amounts so deposited the State Treasurer shall:

16 (a) For transactions occurring on or after October 1, 2014, and
17 before October 1, 2022, credit to the Game and Parks Commission Capital
18 Maintenance Fund all of the proceeds of the sales and use taxes imposed
19 pursuant to section 77-2703 on the sale or lease of motorboats as defined
20 in section 37-1204, personal watercraft as defined in section 37-1204.01,
21 all-terrain vehicles as defined in section 60-103, and utility-type
22 vehicles as defined in section 60-135.01;

23 (b) Credit to the Highway Trust Fund all of the proceeds of the
24 sales and use taxes derived from the sale or lease for periods of more
25 than thirty-one days of motor vehicles, trailers, and semitrailers,
26 except that the proceeds equal to any sales tax rate provided for in
27 section 77-2701.02 that is in excess of five percent derived from the
28 sale or lease for periods of more than thirty-one days of motor vehicles,
29 trailers, and semitrailers shall be credited to the Highway Allocation
30 Fund;

31 (c) For transactions occurring on or after July 1, 2013, and before

1 July 1, 2033, of the proceeds of the sales and use taxes derived from
2 transactions other than those listed in subdivisions (2)(a), ~~and (b)~~, and
3 (e) of this section from a sales tax rate of one-quarter of one percent,
4 credit monthly eighty-five percent to the State Highway Capital
5 Improvement Fund and fifteen percent to the Highway Allocation Fund; ~~and~~

6 (d) Of the proceeds of the sales and use taxes derived from
7 transactions other than those listed in subdivisions (2)(a), ~~and (b)~~, and
8 (e) of this section, credit to the Property Tax Credit Cash Fund the
9 amount certified under section 77-27,237, if any such certification is
10 made; ~~and -~~

11 (e) For transactions occurring on or after October 1, 2020, credit
12 to the Human Trafficking Victim Assistance Fund all of the proceeds of
13 the sales and use taxes derived from the sale of dating and escort
14 services.

15 The balance of all amounts collected under the Nebraska Revenue Act
16 of 1967 shall be credited to the General Fund.

17 Sec. 3. Section 81-1429.02, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

19 81-1429.02 The Human Trafficking Victim Assistance Fund is created.
20 The fund shall contain money donated as gifts, bequests, or other
21 contributions from public or private entities and any money credited to
22 the fund pursuant to subdivision (2)(e) of section 77-27,132. Funds made
23 available by any department or agency of the United States may also be
24 credited to the fund if so directed by such department or agency. The
25 fund shall be administered by the Nebraska Commission on Law Enforcement
26 and Criminal Justice. All money credited to such fund shall be used to
27 support care, treatment, and other services for victims of human
28 trafficking and commercial sexual exploitation of a child. Any money in
29 the fund available for investment shall be invested by the state
30 investment officer pursuant to the Nebraska Capital Expansion Act and the
31 Nebraska State Funds Investment Act.

1 Sec. 4. This act becomes operative on October 1, 2020.

2 Sec. 5. Original section 77-27,132, Reissue Revised Statutes of
3 Nebraska, section 81-1429.02, Revised Statutes Cumulative Supplement,
4 2018, and section 77-2701.16, Revised Statutes Supplement, 2019, are
5 repealed.