

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1109

Introduced by Chambers, 11.

Read first time January 22, 2020

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2701.16, Revised Statutes Supplement, 2019; to provide a sales
- 3 tax exemption for the furnishing of water service; to provide an
- 4 operative date; and to repeal the original section.
- 5 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. This subdivision shall not apply to the furnishing
29 of water service, which shall be exempt from sales and use taxes.

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

1 or statements rendered to customer-generators for such electricity
2 service;

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (h) The gross income received for detective 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. This act becomes operative on October 1, 2020.

2 Sec. 3. Original section 77-2701.16, Revised Statutes Supplement,
3 2019, is repealed.