

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 903**

Introduced by Cornett, 45; Adams, 24; Campbell, 25; Council, 11;  
Dubas, 34; Fulton, 29; Hadley, 37; Harr, 8; Lambert,  
2; Nelson, 6; Price, 3; Sullivan, 41.

Read first time January 09, 2012

Committee:

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-2701, 77-2701.04, and 77-2701.16, Reissue Revised  
3 Statutes of Nebraska; to define terms; to exempt youth  
4 sports from sales tax; to harmonize provisions; to  
5 provide an operative date; to repeal the original  
6 sections; and to declare an emergency.

7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-2701, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to  
4 77-27,236 and sections 3 and 4 of this act shall be known and may be  
5 cited as the Nebraska Revenue Act of 1967.

6           Sec. 2. Section 77-2701.04, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           77-2701.04 For purposes of sections 77-2701.04 to 77-2713  
9 and sections 3 and 4 of this act, unless the context otherwise  
10 requires, the definitions found in sections 77-2701.05 to 77-2701.53  
11 and section 3 of this act shall be used.

12           Sec. 3. (1) Admission means the right or privilege to  
13 have access to a place or location where amusement, entertainment, or  
14 recreation is provided to an audience, spectators, or the  
15 participants in the activity. Admission includes a membership that  
16 allows access to or use of a place or location, but which membership  
17 does not include the right to hold office, vote, or change the  
18 policies of the organization.

19           For purposes of this section:

20           (a) Access to a place or location means the right to be  
21 in the place or location for purposes of amusement, entertainment, or  
22 recreation at a time when the general public is not allowed at that  
23 place or location absent the granting of the admission;

24           (b) Entertainment means the amusement or diversion  
25 provided to an audience or spectators by performers; and

1           (c) Recreation means a sport or activity engaged in by  
2 participants for purposes of refreshment, relaxation, or diversion of  
3 the participants. Recreation does not include practice or  
4 instruction.

5           (2) Admission does not include the lease or rental of a  
6 location, facility, or part of a location or facility if the lessor  
7 cedes the right to determine who is granted access to the location or  
8 facility to the lessee for the period of the lease or rental.

9           Sec. 4. Sales and use taxes shall not be imposed on the  
10 gross receipts from the sale, use, or other consumption of amounts  
11 charged to participate in a youth sports event or youth sports league  
12 by political subdivisions or organizations that are exempt from  
13 income tax under section 501(c)(3) of the Internal Revenue Code.

14           For purposes of this section:

15           (1) Sports event means a tournament or a single  
16 competition that occurs over a limited period of time annually or  
17 intermittently where the participants engage in a sport;

18           (2) Sports league means an organized series of sports  
19 competitions taking place over several weeks or months between teams  
20 or individuals that are members of the league; and

21           (3) Youth sports event or youth sports league means an  
22 event or league that is restricted to participants who are less than  
23 nineteen years of age.

24           Sec. 5. Section 77-2701.16, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

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

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

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

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

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

22                   (c) In the furnishing of gas, electricity, sewer, and  
23 water service, the gross income received from the furnishing of such  
24 services upon billings or statements rendered to consumers for such  
25 utility services;

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

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

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

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

25           (b) In the furnishing of videotapes, movie film,

1 satellite programming, satellite programming service, and satellite  
2 television signal descrambling or decoding devices, the gross income  
3 received from the license, franchise, or other method establishing  
4 the charge.

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

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

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

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

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

20 (e) The gross income received for services of  
21 recreational vehicle parks;

22 (f) The gross income received for labor for repair or  
23 maintenance services performed with regard to tangible personal  
24 property the sale of which would be subject to sales and use taxes,  
25 excluding motor vehicles, except as otherwise provided in section

1 77-2704.26 or 77-2704.50;

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

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

8 (5) Gross receipts includes the sale of admissions, ~~which~~  
9 ~~means the right or privilege to have access to or to use a place or~~  
10 ~~location. An admission includes a membership that allows access to or~~  
11 ~~use of a place or location, but which membership does not include the~~  
12 ~~right to hold office, vote, or change the policies of the~~  
13 ~~organization.~~ When an admission to an activity or a membership  
14 constituting an admission pursuant to this subsection is combined  
15 with the solicitation of a contribution, the portion or the amount  
16 charged representing the fair market price of the admission shall be  
17 considered a retail sale subject to the tax imposed by section  
18 77-2703. The organization conducting the activity shall determine the  
19 amount properly attributable to the purchase of the privilege,  
20 benefit, or other consideration in advance, and such amount shall be  
21 clearly indicated on any ticket, receipt, or other evidence issued in  
22 connection with the payment.

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

1 real estate.

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

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

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

14 (10) Gross receipts does not include:

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

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

22 Sec. 6. This act becomes operative on July 1, 2012.

23 Sec. 7. Original sections 77-2701, 77-2701.04, and  
24 77-2701.16, Reissue Revised Statutes of Nebraska, are repealed.

25 Sec. 8. Since an emergency exists, this act takes effect



1 when passed and approved according to law.