

AMENDMENTS TO LB 727

Introduced by Revenue

1 1. Insert the following new sections:

2 Sec. 34. Section 77-2701, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
5 77-27,236 and sections 36 and 37 of this act shall be known and may
6 be cited as the Nebraska Revenue Act of 1967.

7 Sec. 35. Section 77-2701.04, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-2701.04 For purposes of sections 77-2701.04 to
10 77-2713 and sections 36 and 37 of this act, unless the context
11 otherwise requires, the definitions found in sections 77-2701.05 to
12 77-2701.53 and section 36 of this act shall be used.

13 Sec. 36. (1) Admission means the right or privilege to
14 have access to a place or location where amusement, entertainment,
15 or recreation is provided to an audience, spectators, or the
16 participants in the activity. Admission includes a membership
17 that allows access to or use of a place or location, but which
18 membership does not include the right to hold office, vote, or
19 change the policies of the organization.

20 For purposes of this section:

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

1 that place or location absent the granting of the admission;

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

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

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

12 Sec. 37. Sales and use taxes shall not be imposed on the
13 gross receipts from the sale, use, or other consumption of amounts
14 charged to participate in a youth sports event, youth sports
15 league, or youth competitive educational activity by political
16 subdivisions or organizations that are exempt from income tax under
17 section 501(c)(3) of the Internal Revenue Code.

18 For purposes of this section:

19 (1) Competitive educational activity means a tournament
20 or a single competition that occurs over a limited period of
21 time annually or intermittently where the participants engage in a
22 competitive educational activity;

23 (2) Sports event means a tournament or a single
24 competition that occurs over a limited period of time annually or
25 intermittently where the participants engage in a sport;

26 (3) Sports league means an organized series of sports
27 competitions taking place over several weeks or months between

1 teams or individuals that are members of the league; and

2 (4) Youth sports event, youth sports league, or youth
3 competitive educational activity means an event, league, or
4 activity that is restricted to participants who are less than
5 nineteen years of age.

6 Sec. 38. Section 77-2701.16, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-2701.16 (1) Gross receipts means the total amount of
9 the sale or lease or rental price, as the case may be, of the
10 retail sales of retailers.

11 (2) Gross receipts of every person engaged as a public
12 utility specified in this subsection, as a community antenna
13 television service operator, or as a satellite service operator or
14 any person involved in connecting and installing services defined
15 in subdivision (2)(a), (b), or (d) of this section means:

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

22 (ii) In the furnishing of mobile telecommunications
23 service as described in section 77-2703.04, the gross income
24 received from furnishing mobile telecommunications service that
25 originates and terminates in the same state to a customer with a
26 place of primary use in Nebraska;

27 (b) In the furnishing of telegraph service, the gross

1 income received from the furnishing of intrastate telegraph
2 services;

3 (c) In the furnishing of gas, electricity, sewer, and
4 water service, the gross income received from the furnishing of
5 such services upon billings or statements rendered to consumers for
6 such utility services;

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

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

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

27 (a) In the furnishing of computer software, the gross

1 income received, including the charges for coding, punching, or
2 otherwise producing any computer software and the charges for the
3 tapes, disks, punched cards, or other properties furnished by the
4 seller; and

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

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

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

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

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

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

25 (e) The gross income received for services of
26 recreational vehicle parks;

27 (f) The gross income received for labor for repair or

1 maintenance services performed with regard to tangible personal
2 property the sale of which would be subject to sales and use taxes,
3 excluding motor vehicles, except as otherwise provided in section
4 77-2704.26 or 77-2704.50;

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

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

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

26 (6) Gross receipts includes the sale of live plants
27 incorporated into real estate except when such incorporation is

1 incidental to the transfer of an improvement upon real estate or
2 the real estate.

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

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

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

15 (10) Gross receipts does not include:

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

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

23 2. Renumber the remaining sections accordingly and
24 correct the internal references, operative date section, and
25 repealer so that the sections added by this amendment become
26 operative on July 1, 2012.