

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 358**

Introduced by Haar, 21.

Read first time January 13, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-2701.16, Reissue Revised Statutes of Nebraska; to  
3 change provisions relating to sales taxation of net  
4 metering; to provide an operative date; and to repeal the  
5 original section.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 77-2701.16, Reissue Revised Statutes  
2 of Nebraska, 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) In the furnishing of gas, electricity, sewer, and  
25 water service, the gross income received from the furnishing of such

1 services upon billings or statements rendered to consumers for such  
2 utility services, except the gross income received from the  
3 furnishing of electricity to a customer-generator as defined in  
4 section 70-2002 shall be the net energy use on a billing or statement  
5 rendered to the customer-generator;

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

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

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

25 (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 income  
8 received from the license, franchise, or other method establishing  
9 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 to  
19 tax. If any or all of the charge for installation is free to the  
20 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 third-  
24 party service provider;

25 (e) The gross income received for services of

1 recreational vehicle parks;

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

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

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

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

1 clearly indicated on any ticket, receipt, or other evidence issued in  
2 connection with the payment.

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

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

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

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

19 (10) Gross receipts does not include:

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

24 (b) The price of property or services returned or  
25 rejected by customers when the full sales price is refunded either in

1 cash or credit.

2                   Sec. 2. This act becomes operative on October 1, 2011.

3                   Sec. 3. Original section 77-2701.16, Reissue Revised

4 Statutes of Nebraska, is repealed.