

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 385**

Introduced by Pahls, 31.

Read first time January 16, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 13-319, 13-2813, 77-2701.33, and 77-27,142, Reissue  
3 Revised Statutes of Nebraska, and sections 77-2701,  
4 77-2701.04, 77-2701.16, and 77-2703, Revised Statutes  
5 Cumulative Supplement, 2008; to terminate sales tax  
6 exemptions and the sales and use taxes as prescribed;  
7 to harmonize provisions; and to repeal the original  
8 sections.

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

1           Section 1. Section 13-319, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           13-319 Any county by resolution of the governing body  
4 may impose a sales and use tax of one-half percent, one percent,  
5 or one and one-half percent upon the same transactions sourced as  
6 provided in sections 77-2703.01 to 77-2703.04 within the county,  
7 but outside any incorporated municipality which has adopted a local  
8 sales tax pursuant to section 77-27,142, on which the state is  
9 authorized to impose a tax pursuant to the Nebraska Revenue Act of  
10 1967, as amended from time to time. Any sales and use tax imposed  
11 pursuant to this section must be used to finance public services  
12 provided by a public safety commission or to provide the county  
13 share of funds required under any other agreement executed under  
14 the Interlocal Cooperation Act or Joint Public Agency Act. A sales  
15 and use tax shall not be imposed pursuant to this section until  
16 an election has been held and a majority of the qualified electors  
17 have approved the tax pursuant to sections 13-322 and 13-323. This  
18 section terminates on July 1, 2014, and any tax imposed pursuant to  
19 this section terminates on such date.

20           Sec. 2. Section 13-2813, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           13-2813 (1) A municipal county by ordinance of its  
23 council may impose a sales and use tax of one-half percent, one  
24 percent, or one and one-half percent upon the same transactions  
25 within the entire municipal county on which the state is authorized

1 to impose a tax pursuant to the Nebraska Revenue Act of 1967, as  
2 amended from time to time.

3 (2) A municipal county shall not impose a new sales and  
4 use tax, increase the tax, or extend the territory of an existing  
5 sales and use tax until an election is held and a majority of the  
6 registered voters as provided in section 13-2810 have approved the  
7 tax, increase, or extension. The ballot issue proposing approval of  
8 a new sales and use tax or the increase or territorial extension  
9 of an existing sales and use tax may be combined with the issue  
10 proposing creation of a municipal county.

11 (3) This section terminates on July 1, 2014, and any tax  
12 imposed pursuant to this section terminates on such date.

13 Sec. 3. Section 77-2701, Revised Statutes Cumulative  
14 Supplement, 2008, is amended to read:

15 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to  
16 77-27,236 and section 8 of this act shall be known and may be cited  
17 as the Nebraska Revenue Act of 1967.

18 Sec. 4. Section 77-2701.04, Revised Statutes Cumulative  
19 Supplement, 2008, is amended to read:

20 77-2701.04 For purposes of sections 77-2701.04 to 77-2713  
21 and section 8 of this act, unless the context otherwise requires,  
22 the definitions found in sections 77-2701.05 to 77-2701.53 shall be  
23 used.

24 Sec. 5. Section 77-2701.16, Revised Statutes Cumulative  
25 Supplement, 2008, 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  
3 retail 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  
8 in 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  
11 in section 77-2703.04, the gross income received from furnishing  
12 local exchange telephone service and intrastate message toll  
13 telephone service; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23           (f) The gross income received for labor for repair or  
24 maintenance services performed with regard to tangible personal  
25 property the sale of which would be subject to sales and use taxes,

1 excluding motor vehicles, except as otherwise provided in section  
2 77-2704.26 or 77-2704.50;

3 (g) The gross income received for animal specialty  
4 services except (i) veterinary services and (ii) specialty services  
5 performed on livestock as defined in section 54-183; and

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

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

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

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

4           (8) Gross receipts includes the sale of prepaid telephone  
5 calling arrangements and the recharge of prepaid telephone calling  
6 arrangements. If the sale or recharge of a prepaid telephone  
7 calling arrangement does not take place at the vendor's place of  
8 business, the sale or recharge shall be conclusively determined  
9 to take place at the customer's shipping address or, if there is  
10 no item shipped, at the customer's billing address. For purposes  
11 of this subsection, a prepaid telephone calling arrangement means  
12 the right to exclusively purchase telecommunications services that  
13 are paid for in advance that enables the origination of calls  
14 using an access number or authorization code, whether manually or  
15 electronically dialed.

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

23           (10) Gross receipts does not include:

24           (a) The amount of any rebate granted by a motor vehicle  
25 or motorboat manufacturer or dealer at the time of sale of the

1 motor vehicle or motorboat, which rebate functions as a discount  
2 from the sales price of the motor vehicle or motorboat; or

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

6 (11) Subsections (2) through (10) of this section  
7 terminate on July 1, 2013.

8 Sec. 6. Section 77-2701.33, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 77-2701.33 Sale means any transfer of title or possession  
11 or segregation in contemplation of transfer of title or possession,  
12 exchange, barter, lease, or rental, conditional or otherwise, in  
13 any manner or by any means, of property for a consideration or the  
14 provision of service for a consideration. Sale Until July 1, 2012,  
15 sale includes, but is not limited to:

16 (1) The producing, fabricating, processing, printing,  
17 or imprinting of property for a consideration for consumers who  
18 furnish either directly or indirectly the materials used in the  
19 producing, fabricating, processing, printing, or imprinting; and

20 (2) The renting or furnishing for periods of less than  
21 thirty days of any room or rooms, lodgings, or accommodations in  
22 any hotel, motel, inn, tourist camp, tourist cabin, or any other  
23 place, except a health care facility licensed under the Health Care  
24 Facility Licensure Act in which rooms, lodgings, or accommodations  
25 are regularly furnished for a consideration or a facility operated

1 by an educational institution established under Chapter 79 or  
2 Chapter 85 in which rooms are regularly used to house students for  
3 a consideration for periods in excess of thirty days.

4 Sec. 7. Section 77-2703, Revised Statutes Cumulative  
5 Supplement, 2008, is amended to read:

6 77-2703 (1) ~~There~~ Until July 1, 2016, there is hereby  
7 imposed a tax at the rate provided in section 77-2701.02 upon  
8 the gross receipts from all sales of tangible personal property  
9 sold at retail in this state; the gross receipts of every person  
10 engaged as a public utility, as a community antenna television  
11 service operator, or as a satellite service operator, any person  
12 involved in the connecting and installing of the services defined  
13 in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or  
14 every person engaged as a retailer of intellectual or entertainment  
15 properties referred to in subsection (3) of section 77-2701.16;  
16 the gross receipts from the sale of admissions in this state; the  
17 gross receipts from the sale of warranties, guarantees, service  
18 agreements, or maintenance agreements when the items covered are  
19 subject to tax under this section; beginning January 1, 2008, the  
20 gross receipts from the sale of bundled transactions when one or  
21 more of the products included in the bundle are taxable; the gross  
22 receipts from the provision of services defined in subsection (4)  
23 of section 77-2701.16; and the gross receipts from the sale of  
24 products delivered electronically as described in subsection (9) of  
25 section 77-2701.16. Except as provided in section 77-2701.03, when

1 there is a sale, the tax shall be imposed at the rate in effect at  
2 the time the gross receipts are realized under the accounting basis  
3 used by the retailer to maintain his or her books and records.

4 (a) The tax imposed by this section shall be collected  
5 by the retailer from the consumer. It shall constitute a part of  
6 the purchase price and until collected shall be a debt from the  
7 consumer to the retailer and shall be recoverable at law in the  
8 same manner as other debts. The tax required to be collected by the  
9 retailer from the consumer constitutes a debt owed by the retailer  
10 to this state.

11 (b) It is unlawful for any retailer to advertise, hold  
12 out, or state to the public or to any customer, directly or  
13 indirectly, that the tax or part thereof will be assumed or  
14 absorbed by the retailer, that it will not be added to the selling,  
15 renting, or leasing price of the property sold, rented, or leased,  
16 or that, if added, it or any part thereof will be refunded. The  
17 provisions of this subdivision shall not apply to a public utility.

18 (c) The tax required to be collected by the retailer from  
19 the purchaser, unless otherwise provided by statute or by rule and  
20 regulation of the Tax Commissioner, shall be displayed separately  
21 from the list price, the price advertised in the premises, the  
22 marked price, or other price on the sales check or other proof of  
23 sales, rentals, or leases.

24 (d) For the purpose of more efficiently securing the  
25 payment, collection, and accounting for the sales tax and for the

1 convenience of the retailer in collecting the sales tax, it shall  
2 be the duty of the Tax Commissioner to provide a schedule or  
3 schedules of the amounts to be collected from the consumer or user  
4 to effectuate the computation and collection of the tax imposed  
5 by the Nebraska Revenue Act of 1967. Such schedule or schedules  
6 shall provide that the tax shall be collected from the consumer  
7 or user uniformly on sales according to brackets based on sales  
8 prices of the item or items. Retailers may compute the tax due on  
9 any transaction on an item or an invoice basis. The rounding rule  
10 provided in section 77-3,117 applies.

11 (e) The use of tokens or stamps for the purpose of  
12 collecting or enforcing the collection of the taxes imposed in the  
13 Nebraska Revenue Act of 1967 or for any other purpose in connection  
14 with such taxes is prohibited.

15 (f) For the purpose of the proper administration of the  
16 provisions of the Nebraska Revenue Act of 1967 and to prevent  
17 evasion of the retail sales tax, it shall be presumed that all  
18 gross receipts are subject to the tax until the contrary is  
19 established. The burden of proving that a sale of property is not  
20 a sale at retail is upon the person who makes the sale unless he  
21 or she takes from the purchaser (i) a resale certificate to the  
22 effect that the property is purchased for the purpose of reselling,  
23 leasing, or renting it, (ii) an exemption certificate pursuant to  
24 subsection (7) of section 77-2705, or (iii) a direct payment permit  
25 pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale

1 certificate, exemption certificate, or direct payment permit shall  
2 be conclusive proof for the seller that the sale was made for  
3 resale or was exempt or that the tax will be paid directly to the  
4 state.

5 (g) In the rental or lease of automobiles, trucks,  
6 trailers, semitrailers, and truck-tractors as defined in the Motor  
7 Vehicle Registration Act, the tax shall be collected by the lessor  
8 on the rental or lease price at the tax rate in effect on the date  
9 the automobile, truck, trailer, semitrailer, or truck-tractor is  
10 delivered to the lessee, except as otherwise provided within this  
11 section.

12 (h) In the rental or lease of automobiles, trucks,  
13 trailers, semitrailers, and truck-tractors as defined in the act,  
14 for periods of one year or more, the lessor may elect not to  
15 collect and remit the sales tax on the gross receipts and instead  
16 pay a sales tax on the cost of such vehicle. If such election is  
17 made, it shall be made pursuant to the following conditions:

18 (i) Notice of the desire to make such election shall  
19 be filed with the Tax Commissioner and shall not become effective  
20 until the Tax Commissioner is satisfied that the taxpayer has  
21 complied with all conditions of this subsection and all rules and  
22 regulations of the Tax Commissioner;

23 (ii) Such election when made shall continue in force and  
24 effect for a period of not less than two years and thereafter until  
25 such time as the lessor elects to terminate the election;

1           (iii) When such election is made, it shall apply to all  
2 vehicles of the lessor rented or leased for periods of one year or  
3 more except vehicles to be leased to common or contract carriers  
4 who provide to the lessor a valid common or contract carrier  
5 exemption certificate. If the lessor rents or leases other vehicles  
6 for periods of less than one year, such lessor shall maintain his  
7 or her books and records and his or her accounting procedure as the  
8 Tax Commissioner prescribes; and

9           (iv) The Tax Commissioner by rule and regulation shall  
10 prescribe the contents and form of the notice of election, a  
11 procedure for the determination of the tax base of vehicles which  
12 are under an existing lease at the time such election becomes  
13 effective, the method and manner for terminating such election, and  
14 such other rules and regulations as may be necessary for the proper  
15 administration of this subdivision.

16           (i) The tax imposed by this section on the sales of  
17 motor vehicles, semitrailers, and trailers as defined in sections  
18 60-339, 60-348, and 60-354 shall be the liability of the purchaser  
19 and, with the exception of motor vehicles, semitrailers, and  
20 trailers registered pursuant to section 60-3,198, the tax shall  
21 be collected by the county treasurer or designated county official  
22 as provided in the Motor Vehicle Registration Act at the time  
23 the purchaser makes application for the registration of the motor  
24 vehicle, semitrailer, or trailer for operation upon the highways  
25 of this state. The tax imposed by this section on motor vehicles,

1 semitrailers, and trailers registered pursuant to section 60-3,198  
2 shall be collected by the Department of Motor Vehicles at the time  
3 the purchaser makes application for the registration of the motor  
4 vehicle, semitrailer, or trailer for operation upon the highways  
5 of this state. At the time of the sale of any motor vehicle,  
6 semitrailer, or trailer, the seller shall (i) state on the sales  
7 invoice the dollar amount of the tax imposed under this section  
8 and (ii) furnish to the purchaser a certified statement of the  
9 transaction, in such form as the Tax Commissioner prescribes,  
10 setting forth as a minimum the total sales price, the allowance for  
11 any trade-in, and the difference between the two. The sales tax due  
12 shall be computed on the difference between the total sales price  
13 and the allowance for any trade-in as disclosed by such certified  
14 statement. Any seller who willfully understates the amount upon  
15 which the sales tax is due shall be subject to a penalty of one  
16 thousand dollars. A copy of such certified statement shall also  
17 be furnished to the Tax Commissioner. Any seller who fails or  
18 refuses to furnish such certified statement shall be guilty of  
19 a misdemeanor and shall, upon conviction thereof, be punished by  
20 a fine of not less than twenty-five dollars nor more than one  
21 hundred dollars. If the seller fails to state on the sales invoice  
22 the dollar amount of the tax due, the purchaser shall have the  
23 right and authority to rescind any agreement for purchase and  
24 to declare the purchase null and void. If the purchaser retains  
25 such motor vehicle, semitrailer, or trailer in this state and

1 does not register it for operation on the highways of this state  
2 within thirty days of the purchase thereof, the tax imposed by  
3 this section shall immediately thereafter be paid by the purchaser  
4 to the county treasurer, the designated county official, or the  
5 Department of Motor Vehicles. If the tax is not paid on or  
6 before the thirtieth day after its purchase, the county treasurer,  
7 designated county official, or Department of Motor Vehicles shall  
8 also collect from the purchaser interest from the thirtieth day  
9 through the date of payment and sales tax penalties as provided in  
10 the Nebraska Revenue Act of 1967. The county treasurer, designated  
11 county official, or Department of Motor Vehicles shall report and  
12 remit the tax so collected to the Tax Commissioner by the fifteenth  
13 day of the following month. The county treasurer or designated  
14 county official shall deduct and withhold for the use of the county  
15 general fund, from all amounts required to be collected under  
16 this subsection, the collection fee permitted to be deducted by  
17 any retailer collecting the sales tax. The Department of Motor  
18 Vehicles shall deduct, withhold, and deposit in the Motor Carrier  
19 Division Cash Fund the collection fee permitted to be deducted by  
20 any retailer collecting the sales tax. The collection fee shall  
21 be forfeited if the county treasurer, designated county official,  
22 or Department of Motor Vehicles violates any rule or regulation  
23 pertaining to the collection of the use tax.

24 (j)(i) The tax imposed by this section on the sale of a  
25 motorboat as defined in section 37-1204 shall be the liability of

1 the purchaser. The tax shall be collected by the county treasurer  
2 or designated county official at the time the purchaser makes  
3 application for the registration of the motorboat. At the time  
4 of the sale of a motorboat, the seller shall (A) state on the  
5 sales invoice the dollar amount of the tax imposed under this  
6 section and (B) furnish to the purchaser a certified statement of  
7 the transaction, in such form as the Tax Commissioner prescribes,  
8 setting forth as a minimum the total sales price, the allowance for  
9 any trade-in, and the difference between the two. The sales tax due  
10 shall be computed on the difference between the total sales price  
11 and the allowance for any trade-in as disclosed by such certified  
12 statement. Any seller who willfully understates the amount upon  
13 which the sales tax is due shall be subject to a penalty of one  
14 thousand dollars. A copy of such certified statement shall also  
15 be furnished to the Tax Commissioner. Any seller who fails or  
16 refuses to furnish such certified statement shall be guilty of a  
17 misdemeanor and shall, upon conviction thereof, be punished by a  
18 fine of not less than twenty-five dollars nor more than one hundred  
19 dollars. If the seller fails to state on the sales invoice the  
20 dollar amount of the tax due, the purchaser shall have the right  
21 and authority to rescind any agreement for purchase and to declare  
22 the purchase null and void. If the purchaser retains such motorboat  
23 in this state and does not register it within thirty days of the  
24 purchase thereof, the tax imposed by this section shall immediately  
25 thereafter be paid by the purchaser to the county treasurer or

1 designated county official. If the tax is not paid on or before  
2 the thirtieth day after its purchase, the county treasurer or  
3 designated county official shall also collect from the purchaser  
4 interest from the thirtieth day through the date of payment and  
5 sales tax penalties as provided in the Nebraska Revenue Act of  
6 1967. The county treasurer or designated county official shall  
7 report and remit the tax so collected to the Tax Commissioner by  
8 the fifteenth day of the following month. The county treasurer or  
9 designated county official shall deduct and withhold for the use of  
10 the county general fund, from all amounts required to be collected  
11 under this subsection, the collection fee permitted to be deducted  
12 by any retailer collecting the sales tax. The collection fee shall  
13 be forfeited if the county treasurer or designated county official  
14 violates any rule or regulation pertaining to the collection of the  
15 use tax.

16 (ii) In the rental or lease of motorboats, the tax shall  
17 be collected by the lessor on the rental or lease price.

18 (k) The Tax Commissioner shall adopt and promulgate  
19 necessary rules and regulations for determining the amount subject  
20 to the taxes imposed by this section so as to insure that the  
21 full amount of any applicable tax is paid in cases in which a  
22 sale is made of which a part is subject to the taxes imposed by  
23 this section and a part of which is not so subject and a separate  
24 accounting is not practical or economical.

25 (2) A Until July 1, 2015, a use tax is hereby imposed

1 on the storage, use, or other consumption in this state of  
2 property purchased, leased, or rented from any retailer and on  
3 any transaction the gross receipts of which are subject to tax  
4 under subsection (1) of this section on or after June 1, 1967, for  
5 storage, use, or other consumption in this state at the rate set as  
6 provided in subsection (1) of this section on the sales price of  
7 the property or, in the case of leases or rentals, of the lease or  
8 rental prices.

9 (a) Every person storing, using, or otherwise consuming  
10 in this state property purchased from a retailer or leased or  
11 rented from another person for such purpose shall be liable for the  
12 use tax at the rate in effect when his or her liability for the  
13 use tax becomes certain under the accounting basis used to maintain  
14 his or her books and records. His or her liability shall not be  
15 extinguished until the use tax has been paid to this state, except  
16 that a receipt from a retailer engaged in business in this state  
17 or from a retailer who is authorized by the Tax Commissioner, under  
18 such rules and regulations as he or she may prescribe, to collect  
19 the sales tax and who is, for the purposes of the Nebraska Revenue  
20 Act of 1967 relating to the sales tax, regarded as a retailer  
21 engaged in business in this state, which receipt is given to the  
22 purchaser pursuant to subdivision (b) of this subsection, shall be  
23 sufficient to relieve the purchaser from further liability for the  
24 tax to which the receipt refers.

25 (b) Every retailer engaged in business in this state and

1 selling, leasing, or renting property for storage, use, or other  
2 consumption in this state shall, at the time of making any sale,  
3 collect any tax which may be due from the purchaser and shall give  
4 to the purchaser, upon request, a receipt therefor in the manner  
5 and form prescribed by the Tax Commissioner.

6 (c) The Tax Commissioner, in order to facilitate the  
7 proper administration of the use tax, may designate such person or  
8 persons as he or she may deem necessary to be use tax collectors  
9 and delegate to such persons such authority as is necessary to  
10 collect any use tax which is due and payable to the State of  
11 Nebraska. The Tax Commissioner may require of all persons so  
12 designated a surety bond in favor of the State of Nebraska to  
13 insure against any misappropriation of state funds so collected.  
14 The Tax Commissioner may require any tax official, city, county, or  
15 state, to collect the use tax on behalf of the state. All persons  
16 designated to or required to collect the use tax shall account for  
17 such collections in the manner prescribed by the Tax Commissioner.  
18 Nothing in this subdivision shall be so construed as to prevent the  
19 Tax Commissioner or his or her employees from collecting any use  
20 taxes due and payable to the State of Nebraska.

21 (d) All persons designated to collect the use tax and all  
22 persons required to collect the use tax shall forward the total of  
23 such collections to the Tax Commissioner at such time and in such  
24 manner as the Tax Commissioner may prescribe. For all use taxes  
25 collected prior to October 1, 2002, such collectors of the use tax

1 shall deduct and withhold from the amount of taxes collected two  
2 and one-half percent of the first three thousand dollars remitted  
3 each month and one-half of one percent of all amounts in excess  
4 of three thousand dollars remitted each month as reimbursement  
5 for the cost of collecting the tax. For use taxes collected on  
6 and after October 1, 2002, such collectors of the use tax shall  
7 deduct and withhold from the amount of taxes collected two and  
8 one-half percent of the first three thousand dollars remitted each  
9 month as reimbursement for the cost of collecting the tax. Any  
10 such deduction shall be forfeited to the State of Nebraska if such  
11 collector violates any rule, regulation, or directive of the Tax  
12 Commissioner.

13 (e) For the purpose of the proper administration of the  
14 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,  
15 it shall be presumed that property sold, leased, or rented by any  
16 person for delivery in this state is sold, leased, or rented for  
17 storage, use, or other consumption in this state until the contrary  
18 is established. The burden of proving the contrary is upon the  
19 person who purchases, leases, or rents the property.

20 (f) For the purpose of the proper administration of the  
21 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,  
22 for the sale of property to an advertising agency which purchases  
23 the property as an agent for a disclosed or undisclosed principal,  
24 the advertising agency is and remains liable for the sales and  
25 use tax on the purchase the same as if the principal had made the

1 purchase directly.

2           Sec. 8. (1) Sections 77-2701.24, 77-2701.34, 77-2701.35,  
3 77-2704.03 to 77-2704.05, 77-2704.07, 77-2704.08, 77-2704.10,  
4 77-2704.11, 77-2704.13, 77-2704.14, 77-2704.16, 77-2704.17,  
5 77-2704.19, 77-2704.20, 77-2704.23, 77-2704.24, 77-2704.27 to  
6 77-2704.30, 77-2704.32, 77-2704.36, 77-2704.38 to 77-2704.43,  
7 77-2704.47, 77-2704.48, and 77-2704.50 to 77-2704.54 terminate on  
8 July 1, 2011.

9           (2) Sections 77-2704.09, 77-2704.12, 77-2704.15,  
10 77-2704.21, 77-2704.22, 77-2704.25, 77-2704.26, 77-2704.31,  
11 77-2704.44 to 77-2704.46, 77-2704.49, and 77-2704.56 to 77-2704.59  
12 terminate on July 1, 2012.

13           Sec. 9. Section 77-27,142, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           77-27,142 (1) Any incorporated municipality by ordinance  
16 of its governing body is hereby authorized to impose a sales  
17 and use tax of one-half percent, one percent, or one and  
18 one-half percent upon the same transactions that are sourced  
19 under the provisions of sections 77-2703.01 to 77-2703.04 within  
20 such incorporated municipality on which the State of Nebraska is  
21 authorized to impose a tax pursuant to the Nebraska Revenue Act of  
22 1967, as amended from time to time. No sales and use tax shall be  
23 imposed pursuant to this section until an election has been held  
24 and a majority of the qualified electors have approved such tax  
25 pursuant to sections 77-27,142.01 and 77-27,142.02.

1           (2) A city of the metropolitan class is hereby authorized  
2 to increase any city sales and use tax existing on January 1,  
3 1978, imposed pursuant to this section by an amount not to exceed  
4 one-half of one percent if the question of such tax increase  
5 is submitted to the voters of such city and the voters by a  
6 majority vote approve such increase. The question of such increase  
7 shall be submitted to the voters at the primary or general  
8 election in 1980 if the city council shall submit a certified  
9 copy of a resolution to that effect to the election commissioner  
10 not later than forty-one days prior to the primary or general  
11 election. Notwithstanding the provisions of section 77-27,143, if  
12 the increase is approved by the voters at the primary or general  
13 election in 1980, the election commissioner shall file a certified  
14 copy of the election results with the Tax Commissioner on or before  
15 the last day of the month in which the election is held. If the  
16 increase is not approved by the voters at the primary or general  
17 election in 1980, no tax increased pursuant to this section shall  
18 remain in effect after December 31, 1980.

19           (3) A city of the primary class is hereby authorized  
20 to increase any city sales and use tax existing on January 1,  
21 1985, imposed pursuant to this section by an amount not to exceed  
22 one-half of one percent if the question of such tax increase  
23 is submitted to the voters of such city and the voters by a  
24 majority vote approve such increase. The question of such increase  
25 shall be submitted to the voters at the next primary or general

1 election or at a special election if the city council shall submit  
2 a certified copy of a resolution proposing the tax increase to  
3 the election commissioner within a reasonable time prior to the  
4 primary, general, or special election. If the increase is approved  
5 by the voters at the primary, general, or special election, the  
6 election commissioner shall file a certified copy of the election  
7 results with the Tax Commissioner on or before the last day of the  
8 month in which the election is held. If the voters of a city of  
9 the primary class have not approved such an increase by December  
10 31, 1987, the question of such an increase shall not be submitted  
11 thereafter to the voters and there shall be no increase in the city  
12 sales and use tax.

13 (4) A city of the first or second class or village is  
14 hereby authorized to increase any city sales and use tax existing  
15 on January 1, 1986, imposed pursuant to this section by an amount  
16 not to exceed one-half of one percent if the question of such tax  
17 increase is submitted to the voters of such city or village and  
18 the voters by a majority vote approve such increase. The question  
19 of such increase shall be submitted to the voters at any primary  
20 or general election or at a special election if the city council  
21 or village board shall submit a certified copy of a resolution  
22 proposing the tax increase to the election commissioner or county  
23 clerk within a reasonable time prior to the primary, general, or  
24 special election. If the increase is approved by the voters at the  
25 primary, general, or special election, the election commissioner

1 shall file a certified copy of the election results with the Tax  
2 Commissioner on or before the last day of the month in which the  
3 election is held.

4 (5) This section terminates on July 1, 2014, and any tax  
5 imposed pursuant to this section terminates on such date.

6 Sec. 10. Original sections 13-319, 13-2813, 77-2701.33,  
7 and 77-27,142, Reissue Revised Statutes of Nebraska, and sections  
8 77-2701, 77-2701.04, 77-2701.16, and 77-2703, Revised Statutes  
9 Cumulative Supplement, 2008, are repealed.