

AMENDMENTS TO LB595

(Amendments to Standing Committee amendments, AM776)

Introduced by Flood, 19.

1 1. Insert the following new sections:

2 Sec. 6. Section 77-2703, Revised Statutes Cumulative Supplement,
3 2020, is amended to read:

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

25 (a) The tax imposed by this section shall be collected by the
26 retailer from the consumer. It shall constitute a part of the purchase

1 price and until collected shall be a debt from the consumer to the
2 retailer and shall be recoverable at law in the same manner as other
3 debts. The tax required to be collected by the retailer from the consumer
4 constitutes a debt owed by the retailer to this state.

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

12 (c) The tax required to be collected by the retailer from the
13 purchaser, unless otherwise provided by statute or by rule and regulation
14 of the Tax Commissioner, shall be displayed separately from the list
15 price, the price advertised in the premises, the marked price, or other
16 price on the sales check or other proof of sales, rentals, or leases.

17 (d) For the purpose of more efficiently securing the payment,
18 collection, and accounting for the sales tax and for the convenience of
19 the retailer in collecting the sales tax, it shall be the duty of the Tax
20 Commissioner to provide a schedule or schedules of the amounts to be
21 collected from the consumer or user to effectuate the computation and
22 collection of the tax imposed by the Nebraska Revenue Act of 1967. Such
23 schedule or schedules shall provide that the tax shall be collected from
24 the consumer or user uniformly on sales according to brackets based on
25 sales prices of the item or items. Retailers may compute the tax due on
26 any transaction on an item or an invoice basis. The rounding rule
27 provided in section 77-3,117 applies.

28 (e) The use of tokens or stamps for the purpose of collecting or
29 enforcing the collection of the taxes imposed in the Nebraska Revenue Act
30 of 1967 or for any other purpose in connection with such taxes is
31 prohibited.

1 (f) For the purpose of the proper administration of the provisions
2 of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail
3 sales tax, it shall be presumed that all gross receipts are subject to
4 the tax until the contrary is established. The burden of proving that a
5 sale of property is not a sale at retail is upon the person who makes the
6 sale unless he or she takes from the purchaser (i) a resale certificate
7 to the effect that the property is purchased for the purpose of
8 reselling, leasing, or renting it, (ii) an exemption certificate pursuant
9 to subsection (7) of section 77-2705, or (iii) a direct payment permit
10 pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale
11 certificate, exemption certificate, or direct payment permit shall be
12 conclusive proof for the seller that the sale was made for resale or was
13 exempt or that the tax will be paid directly to the state.

14 (g) In the rental or lease of automobiles, trucks, trailers,
15 semitrailers, and truck-tractors as defined in the Motor Vehicle
16 Registration Act, the tax shall be collected by the lessor on the rental
17 or lease price, except as otherwise provided within this section.

18 (h) In peer-to-peer rentals of automobiles, trucks, trailers,
19 semitrailers, and truck-tractors as defined in the Motor Vehicle
20 Registration Act which are made through a digital platform available for
21 use by the general public, the tax shall be collected on the rental price
22 by the party facilitating the rental. For purposes of this subdivision,
23 peer-to-peer rental means a rental transaction in which one individual
24 rents his or her personal automobile, truck, trailer, semitrailer, or
25 truck-tractor to another individual for short-term use.

26 (i) ~~(h)~~ In the rental or lease of automobiles, trucks, trailers,
27 semitrailers, and truck-tractors as defined in the Motor Vehicle
28 Registration Act ~~aet~~, for periods of one year or more, the lessor may
29 elect not to collect and remit the sales tax on the gross receipts and
30 instead pay a sales tax on the cost of such vehicle. If such election is
31 made, it shall be made pursuant to the following conditions:

1 (i) Notice of the desire to make such election shall be filed with
2 the Tax Commissioner and shall not become effective until the Tax
3 Commissioner is satisfied that the taxpayer has complied with all
4 conditions of this subsection and all rules and regulations of the Tax
5 Commissioner;

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

9 (iii) When such election is made, it shall apply to all vehicles of
10 the lessor rented or leased for periods of one year or more except
11 vehicles to be leased to common or contract carriers who provide to the
12 lessor a valid common or contract carrier exemption certificate. If the
13 lessor rents or leases other vehicles for periods of less than one year,
14 such lessor shall maintain his or her books and records and his or her
15 accounting procedure as the Tax Commissioner prescribes; and

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

22 (j) ~~(i)~~ The tax imposed by this section on the sales of motor
23 vehicles, semitrailers, and trailers as defined in sections 60-339,
24 60-348, and 60-354 shall be the liability of the purchaser and, with the
25 exception of motor vehicles, semitrailers, and trailers registered
26 pursuant to section 60-3,198, the tax shall be collected by the county
27 treasurer as provided in the Motor Vehicle Registration Act or by an
28 approved licensed dealer participating in the electronic dealer services
29 system pursuant to section 60-1507 at the time the purchaser makes
30 application for the registration of the motor vehicle, semitrailer, or
31 trailer for operation upon the highways of this state. The tax imposed by

1 this section on motor vehicles, semitrailers, and trailers registered
2 pursuant to section 60-3,198 shall be collected by the Department of
3 Motor Vehicles at the time the purchaser makes application for the
4 registration of the motor vehicle, semitrailer, or trailer for operation
5 upon the highways of this state. At the time of the sale of any motor
6 vehicle, semitrailer, or trailer, the seller shall (i) state on the sales
7 invoice the dollar amount of the tax imposed under this section and (ii)
8 furnish to the purchaser a certified statement of the transaction, in
9 such form as the Tax Commissioner prescribes, setting forth as a minimum
10 the total sales price, the allowance for any trade-in, and the difference
11 between the two. The sales tax due shall be computed on the difference
12 between the total sales price and the allowance for any trade-in as
13 disclosed by such certified statement. Any seller who willfully
14 understates the amount upon which the sales tax is due shall be subject
15 to a penalty of one thousand dollars. A copy of such certified statement
16 shall also be furnished to the Tax Commissioner. Any seller who fails or
17 refuses to furnish such certified statement shall be guilty of a
18 misdemeanor and shall, upon conviction thereof, be punished by a fine of
19 not less than twenty-five dollars nor more than one hundred dollars. If
20 the purchaser does not register such motor vehicle, semitrailer, or
21 trailer for operation on the highways of this state within thirty days of
22 the purchase thereof, the tax imposed by this section shall immediately
23 thereafter be paid by the purchaser to the county treasurer or the
24 Department of Motor Vehicles. If the tax is not paid on or before the
25 thirtieth day after its purchase, the county treasurer or Department of
26 Motor Vehicles shall also collect from the purchaser interest from the
27 thirtieth day through the date of payment and sales tax penalties as
28 provided in the Nebraska Revenue Act of 1967. The county treasurer or
29 Department of Motor Vehicles shall report and remit the tax so collected
30 to the Tax Commissioner by the fifteenth day of the following month. The
31 county treasurer, for his or her collection fee, shall deduct and

1 withhold, from all amounts required to be collected under this
2 subsection, the collection fee permitted to be deducted by any retailer
3 collecting the sales tax, all of which shall be deposited in the county
4 general fund, plus an additional amount equal to one-half of one percent
5 of all amounts in excess of six thousand dollars remitted each month.
6 Prior to January 1, 2023, fifty percent of such additional amount shall
7 be deposited in the county general fund and fifty percent of such
8 additional amount shall be deposited in the county road fund. On and
9 after January 1, 2023, seventy-five percent of such additional amount
10 shall be deposited in the county general fund and twenty-five percent of
11 such additional amount shall be deposited in the county road fund. In any
12 county with a population of one hundred fifty thousand inhabitants or
13 more, the county treasurer shall remit one dollar of his or her
14 collection fee for each of the first five thousand motor vehicles,
15 semitrailers, or trailers registered with such county treasurer on or
16 after January 1, 2020, to the State Treasurer for credit to the
17 Department of Revenue Enforcement Fund. The Department of Motor Vehicles,
18 for its collection fee, shall deduct, withhold, and deposit in the Motor
19 Carrier Division Cash Fund the collection fee permitted to be deducted by
20 any retailer collecting the sales tax. The collection fee for the county
21 treasurer or the Department of Motor Vehicles shall be forfeited if the
22 county treasurer or department violates any rule or regulation pertaining
23 to the collection of the use tax.

24 (k)(i) ~~(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 the
26 purchaser. The tax shall be collected by the county treasurer at the time
27 the purchaser makes application for the registration of the motorboat. At
28 the time of the sale of a motorboat, the seller shall (A) state on the
29 sales invoice the dollar amount of the tax imposed under this section and
30 (B) furnish to the purchaser a certified statement of the transaction, in
31 such form as the Tax Commissioner prescribes, setting forth as a minimum

1 the total sales price, the allowance for any trade-in, and the difference
2 between the two. The sales tax due shall be computed on the difference
3 between the total sales price and the allowance for any trade-in as
4 disclosed by such certified statement. Any seller who willfully
5 understates the amount upon which the sales tax is due shall be subject
6 to a penalty of one thousand dollars. A copy of such certified statement
7 shall also be furnished to the Tax Commissioner. Any seller who fails or
8 refuses to furnish such certified statement shall be guilty of a
9 misdemeanor and shall, upon conviction thereof, be punished by a fine of
10 not less than twenty-five dollars nor more than one hundred dollars. If
11 the purchaser does not register such motorboat within thirty days of the
12 purchase thereof, the tax imposed by this section shall immediately
13 thereafter be paid by the purchaser to the county treasurer. If the tax
14 is not paid on or before the thirtieth day after its purchase, the county
15 treasurer shall also collect from the purchaser interest from the
16 thirtieth day through the date of payment and sales tax penalties as
17 provided in the Nebraska Revenue Act of 1967. The county treasurer shall
18 report and remit the tax so collected to the Tax Commissioner by the
19 fifteenth day of the following month. The county treasurer, for his or
20 her collection fee, shall deduct and withhold for the use of the county
21 general fund, from all amounts required to be collected under this
22 subsection, the collection fee permitted to be deducted by any retailer
23 collecting the sales tax. The collection fee shall be forfeited if the
24 county treasurer violates any rule or regulation pertaining to the
25 collection of the use tax.

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

28 ~~(1)(i) (k)(i)~~ The tax imposed by this section on the sale of an all-
29 terrain vehicle as defined in section 60-103 or a utility-type vehicle as
30 defined in section 60-135.01 shall be the liability of the purchaser. The
31 tax shall be collected by the county treasurer or by an approved licensed

1 dealer participating in the electronic dealer services system pursuant to
2 section 60-1507 at the time the purchaser makes application for the
3 certificate of title for the all-terrain vehicle or utility-type vehicle.
4 At the time of the sale of an all-terrain vehicle or a utility-type
5 vehicle, the seller shall (A) state on the sales invoice the dollar
6 amount of the tax imposed under this section and (B) furnish to the
7 purchaser a certified statement of the transaction, in such form as the
8 Tax Commissioner prescribes, setting forth as a minimum the total sales
9 price, the allowance for any trade-in, and the difference between the
10 two. The sales tax due shall be computed on the difference between the
11 total sales price and the allowance for any trade-in as disclosed by such
12 certified statement. Any seller who willfully understates the amount upon
13 which the sales tax is due shall be subject to a penalty of one thousand
14 dollars. A copy of such certified statement shall also be furnished to
15 the Tax Commissioner. Any seller who fails or refuses to furnish such
16 certified statement shall be guilty of a misdemeanor and shall, upon
17 conviction thereof, be punished by a fine of not less than twenty-five
18 dollars nor more than one hundred dollars. If the purchaser does not
19 obtain a certificate of title for such all-terrain vehicle or utility-
20 type vehicle within thirty days of the purchase thereof, the tax imposed
21 by this section shall immediately thereafter be paid by the purchaser to
22 the county treasurer. If the tax is not paid on or before the thirtieth
23 day after its purchase, the county treasurer shall also collect from the
24 purchaser interest from the thirtieth day through the date of payment and
25 sales tax penalties as provided in the Nebraska Revenue Act of 1967. The
26 county treasurer shall report and remit the tax so collected to the Tax
27 Commissioner by the fifteenth day of the following month. The county
28 treasurer, for his or her collection fee, shall deduct and withhold for
29 the use of the county general fund, from all amounts required to be
30 collected under this subsection, the collection fee permitted to be
31 deducted by any retailer collecting the sales tax. The collection fee

1 shall be forfeited if the county treasurer violates any rule or
2 regulation pertaining to the collection of the use tax.

3 (ii) In the rental or lease of an all-terrain vehicle or a utility-
4 type vehicle, the tax shall be collected by the lessor on the rental or
5 lease price.

6 (iii) County treasurers are appointed as sales and use tax
7 collectors for all sales of all-terrain vehicles or utility-type vehicles
8 made outside of this state to purchasers or users of all-terrain vehicles
9 or utility-type vehicles which are required to have a certificate of
10 title in this state. The county treasurer shall collect the applicable
11 use tax from the purchaser of an all-terrain vehicle or a utility-type
12 vehicle purchased outside of this state at the time application for a
13 certificate of title is made. The full use tax on the purchase price
14 shall be collected by the county treasurer if a sales or occupation tax
15 was not paid by the purchaser in the state of purchase. If a sales or
16 occupation tax was lawfully paid in the state of purchase at a rate less
17 than the tax imposed in this state, use tax must be collected on the
18 difference as a condition for obtaining a certificate of title in this
19 state.

20 (m) ~~(1)~~ The Tax Commissioner shall adopt and promulgate necessary
21 rules and regulations for determining the amount subject to the taxes
22 imposed by this section so as to insure that the full amount of any
23 applicable tax is paid in cases in which a sale is made of which a part
24 is subject to the taxes imposed by this section and a part of which is
25 not so subject and a separate accounting is not practical or economical.

26 (2) A use tax is hereby imposed on the storage, use, or other
27 consumption in this state of property purchased, leased, or rented from
28 any retailer and on any transaction the gross receipts of which are
29 subject to tax under subsection (1) of this section on or after June 1,
30 1967, for storage, use, or other consumption in this state at the rate
31 set as provided in subsection (1) of this section on the sales price of

1 the property or, in the case of leases or rentals, of the lease or rental
2 prices.

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

18 (b) Every retailer engaged in business in this state and selling,
19 leasing, or renting property for storage, use, or other consumption in
20 this state shall, at the time of making any sale, collect any tax which
21 may be due from the purchaser and shall give to the purchaser, upon
22 request, a receipt therefor in the manner and form prescribed by the Tax
23 Commissioner.

24 (c) The Tax Commissioner, in order to facilitate the proper
25 administration of the use tax, may designate such person or persons as he
26 or she may deem necessary to be use tax collectors and delegate to such
27 persons such authority as is necessary to collect any use tax which is
28 due and payable to the State of Nebraska. The Tax Commissioner may
29 require of all persons so designated a surety bond in favor of the State
30 of Nebraska to insure against any misappropriation of state funds so
31 collected. The Tax Commissioner may require any tax official, city,

1 county, or state, to collect the use tax on behalf of the state. All
2 persons designated to or required to collect the use tax shall account
3 for such collections in the manner prescribed by the Tax Commissioner.
4 Nothing in this subdivision shall be so construed as to prevent the Tax
5 Commissioner or his or her employees from collecting any use taxes due
6 and payable to the State of Nebraska.

7 (d) All persons designated to collect the use tax and all persons
8 required to collect the use tax shall forward the total of such
9 collections to the Tax Commissioner at such time and in such manner as
10 the Tax Commissioner may prescribe. For all use taxes collected prior to
11 October 1, 2002, such collectors of the use tax shall deduct and withhold
12 from the amount of taxes collected two and one-half percent of the first
13 three thousand dollars remitted each month and one-half of one percent of
14 all amounts in excess of three thousand dollars remitted each month as
15 reimbursement for the cost of collecting the tax. For use taxes collected
16 on and after October 1, 2002, such collectors of the use tax shall deduct
17 and withhold from the amount of taxes collected two and one-half percent
18 of the first three thousand dollars remitted each month as reimbursement
19 for the cost of collecting the tax. Any such deduction shall be forfeited
20 to the State of Nebraska if such collector violates any rule, regulation,
21 or directive of the Tax Commissioner.

22 (e) For the purpose of the proper administration of the Nebraska
23 Revenue Act of 1967 and to prevent evasion of the use tax, it shall be
24 presumed that property sold, leased, or rented by any person for delivery
25 in this state is sold, leased, or rented for storage, use, or other
26 consumption in this state until the contrary is established. The burden
27 of proving the contrary is upon the person who purchases, leases, or
28 rents the property.

29 (f) For the purpose of the proper administration of the Nebraska
30 Revenue Act of 1967 and to prevent evasion of the use tax, for the sale
31 of property to an advertising agency which purchases the property as an

1 agent for a disclosed or undisclosed principal, the advertising agency is
2 and remains liable for the sales and use tax on the purchase the same as
3 if the principal had made the purchase directly.

4 Sec. 9. Section 77-2708, Revised Statutes Cumulative Supplement,
5 2020, is amended to read:

6 77-2708 (1)(a) The sales and use taxes imposed by the Nebraska
7 Revenue Act of 1967 shall be due and payable to the Tax Commissioner
8 monthly on or before the twentieth day of the month next succeeding each
9 monthly period unless otherwise provided pursuant to the Nebraska Revenue
10 Act of 1967.

11 (b)(i) On or before the twentieth day of the month following each
12 monthly period or such other period as the Tax Commissioner may require,
13 a return for such period, along with all taxes due, shall be filed with
14 the Tax Commissioner in such form and content as the Tax Commissioner may
15 prescribe and containing such information as the Tax Commissioner deems
16 necessary for the proper administration of the Nebraska Revenue Act of
17 1967. The Tax Commissioner, if he or she deems it necessary in order to
18 insure payment to or facilitate the collection by the state of the amount
19 of sales or use taxes due, may require returns and payment of the amount
20 of such taxes for periods other than monthly periods in the case of a
21 particular seller, retailer, or purchaser, as the case may be. The Tax
22 Commissioner shall by rule and regulation require reports and tax
23 payments from sellers, retailers, or purchasers depending on their yearly
24 tax liability. Except as required by the streamlined sales and use tax
25 agreement, annual returns shall be required if such sellers', retailers',
26 or purchasers' yearly tax liability is less than nine hundred dollars,
27 quarterly returns shall be required if their yearly tax liability is nine
28 hundred dollars or more and less than three thousand dollars, and monthly
29 returns shall be required if their yearly tax liability is three thousand
30 dollars or more. The Tax Commissioner shall have the discretion to allow
31 an annual return for seasonal retailers, even when their yearly tax

1 liability exceeds the amounts listed in this subdivision.

2 The Tax Commissioner may adopt and promulgate rules and regulations
3 to allow annual, semiannual, or quarterly returns for any retailer making
4 monthly remittances or payments of sales and use taxes by electronic
5 funds transfer or for any retailer remitting tax to the state pursuant to
6 the streamlined sales and use tax agreement. Such rules and regulations
7 may establish a method of determining the amount of the payment that will
8 result in substantially all of the tax liability being paid each quarter.
9 At least once each year, the difference between the amount paid and the
10 amount due shall be reconciled. If the difference is more than ten
11 percent of the amount paid, a penalty of fifty percent of the unpaid
12 amount shall be imposed.

13 (ii) For purposes of the sales tax, a return shall be filed by every
14 retailer liable for collection from a purchaser and payment to the state
15 of the tax, except that a combined sales tax return may be filed for all
16 licensed locations which are subject to common ownership. For purposes of
17 this subdivision, common ownership means the same person or persons own
18 eighty percent or more of each licensed location. For purposes of the use
19 tax, a return shall be filed by every retailer engaged in business in
20 this state and by every person who has purchased property, the storage,
21 use, or other consumption of which is subject to the use tax, but who has
22 not paid the use tax due to a retailer required to collect the tax.

23 (iii) The Tax Commissioner may require that returns be signed by the
24 person required to file the return or by his or her duly authorized agent
25 but need not be verified by oath.

26 (iv) A taxpayer who keeps his or her regular books and records on a
27 cash basis, an accrual basis, or any generally recognized accounting
28 basis which correctly reflects the operation of the business may file the
29 sales and use tax returns required by the Nebraska Revenue Act of 1967 on
30 the same accounting basis that is used for the regular books and records,
31 except that on credit, conditional, and installment sales, the retailer

1 who keeps his or her books on an accrual basis may report such sales on
2 the cash basis and pay the tax upon the collections made during each
3 month. If a taxpayer transfers, sells, assigns, or otherwise disposes of
4 an account receivable, he or she shall be deemed to have received the
5 full balance of the consideration for the original sale and shall be
6 liable for the remittance of the sales tax on the balance of the total
7 sale price not previously reported, except that such transfer, sale,
8 assignment, or other disposition of an account receivable by a retailer
9 to a subsidiary shall not be deemed to require the retailer to pay the
10 sales tax on the credit sale represented by the account transferred prior
11 to the time the customer makes payment on such account. If the subsidiary
12 does not obtain a Nebraska sales tax permit, the taxpayer shall obtain a
13 surety bond in favor of the State of Nebraska to insure payment of the
14 tax and any interest and penalty imposed thereon under this section in an
15 amount not less than two times the amount of tax payable on outstanding
16 accounts receivable held by the subsidiary as of the end of the prior
17 calendar year. Failure to obtain either a sales tax permit or a surety
18 bond in accordance with this section shall result in the payment on the
19 next required filing date of all sales taxes not previously remitted.
20 When the retailer has adopted one basis or the other of reporting credit,
21 conditional, or installment sales and paying the tax thereon, he or she
22 will not be permitted to change from that basis without first having
23 notified the Tax Commissioner.

24 (c) Except as provided in the streamlined sales and use tax
25 agreement, the taxpayer required to file the return shall deliver or mail
26 any required return together with a remittance of the net amount of the
27 tax due to the office of the Tax Commissioner on or before the required
28 filing date. Failure to file the return, filing after the required filing
29 date, failure to remit the net amount of the tax due, or remitting the
30 net amount of the tax due after the required filing date shall be cause
31 for a penalty, in addition to interest, of ten percent of the amount of

1 tax not paid by the required filing date or twenty-five dollars,
2 whichever is greater, unless the penalty is being collected under
3 subdivision ~~(1)(j) (1)(i)~~, ~~(1)(k)(i) (1)(j)(i)~~, or ~~(1)(l)(i) (1)(k)(i)~~ of
4 section 77-2703 by a county treasurer or the Department of Motor
5 Vehicles, in which case the penalty shall be five dollars.

6 (d) The taxpayer shall deduct and withhold, from the taxes otherwise
7 due from him or her on his or her tax return, two and one-half percent of
8 the first three thousand dollars remitted each month to reimburse himself
9 or herself for the cost of collecting the tax. Taxpayers filing a
10 combined return as allowed by subdivision (1)(b)(ii) of this subsection
11 shall compute such collection fees on the basis of the receipts and
12 liability of each licensed location.

13 (e) A retailer that makes sales into Nebraska using a multivendor
14 marketplace platform is relieved of its obligation to collect and remit
15 sales taxes to Nebraska with regard to any sales taxes collected and
16 remitted by the multivendor marketplace platform. Such a retailer must
17 include all sales into Nebraska in its gross receipts in its return, but
18 may claim credit for any sales taxes collected and remitted by the
19 multivendor marketplace platform with respect to such retailer's sales.
20 Such retailer is liable for the sales tax due on sales into Nebraska as
21 provided in section 77-2704.35.

22 (f) A multivendor marketplace platform is relieved of its obligation
23 to collect and remit the correct amount of state and local sales taxes to
24 Nebraska to the extent that the multivendor marketplace platform can
25 establish that the error was due to insufficient or incorrect information
26 given to the multivendor marketplace platform by the seller and relied on
27 by the multivendor marketplace platform. This subdivision shall not apply
28 if the multivendor marketplace platform and the seller are related
29 persons under either section 267(b) or (c) or section 707(b) of the
30 Internal Revenue Code of 1986 or if the seller is also the multivendor
31 marketplace platform operator.

1 (2)(a) If the Tax Commissioner determines that any sales or use tax
2 amount, penalty, or interest has been paid more than once, has been
3 erroneously or illegally collected or computed, or has been paid and the
4 purchaser qualifies for a refund under section 77-2708.01, the Tax
5 Commissioner shall set forth that fact in his or her records and the
6 excess amount collected or paid may be credited on any sales, use, or
7 income tax amounts then due and payable from the person under the
8 Nebraska Revenue Act of 1967. Any balance may be refunded to the person
9 by whom it was paid or his or her successors, administrators, or
10 executors.

11 (b) No refund shall be allowed unless a claim therefor is filed with
12 the Tax Commissioner by the person who made the overpayment or his or her
13 attorney, executor, or administrator within three years from the required
14 filing date following the close of the period for which the overpayment
15 was made, within six months after any determination becomes final under
16 section 77-2709, or within six months from the date of overpayment with
17 respect to such determinations, whichever of these three periods expires
18 later, unless the credit relates to a period for which a waiver has been
19 given. Failure to file a claim within the time prescribed in this
20 subsection shall constitute a waiver of any demand against the state on
21 account of overpayment.

22 (c) Every claim shall be in writing on forms prescribed by the Tax
23 Commissioner and shall state the specific amount and grounds upon which
24 the claim is founded. No refund shall be made in any amount less than two
25 dollars.

26 (d) The Tax Commissioner shall allow or disallow a claim within one
27 hundred eighty days after it has been filed. A request for a hearing
28 shall constitute a waiver of the one-hundred-eighty-day period. The
29 claimant and the Tax Commissioner may also agree to extend the one-
30 hundred-eighty-day period. If a hearing has not been requested and the
31 Tax Commissioner has neither allowed nor disallowed a claim within either

1 the one hundred eighty days or the period agreed to by the claimant and
2 the Tax Commissioner, the claim shall be deemed to have been allowed.

3 (e) Within thirty days after disallowing any claim in whole or in
4 part, the Tax Commissioner shall serve notice of his or her action on the
5 claimant in the manner prescribed for service of notice of a deficiency
6 determination.

7 (f) Within thirty days after the mailing of the notice of the Tax
8 Commissioner's action upon a claim filed pursuant to the Nebraska Revenue
9 Act of 1967, the action of the Tax Commissioner shall be final unless the
10 taxpayer seeks review of the Tax Commissioner's determination as provided
11 in section 77-27,127.

12 (g) Upon the allowance of a credit or refund of any sum erroneously
13 or illegally assessed or collected, of any penalty collected without
14 authority, or of any sum which was excessive or in any manner wrongfully
15 collected, interest shall be allowed and paid on the amount of such
16 credit or refund at the rate specified in section 45-104.02, as such rate
17 may from time to time be adjusted, from the date such sum was paid or
18 from the date the return was required to be filed, whichever date is
19 later, to the date of the allowance of the refund or, in the case of a
20 credit, to the due date of the amount against which the credit is
21 allowed, but in the case of a voluntary and unrequested payment in excess
22 of actual tax liability or a refund under section 77-2708.01, no interest
23 shall be allowed when such excess is refunded or credited.

24 (h) No suit or proceeding shall be maintained in any court for the
25 recovery of any amount alleged to have been erroneously or illegally
26 determined or collected unless a claim for refund or credit has been duly
27 filed.

28 (i) The Tax Commissioner may recover any refund or part thereof
29 which is erroneously made and any credit or part thereof which is
30 erroneously allowed by issuing a deficiency determination within one year
31 from the date of refund or credit or within the period otherwise allowed

1 for issuing a deficiency determination, whichever expires later.

2 (j)(i) Credit shall be allowed to the retailer, contractor, or
3 repairperson for sales or use taxes paid pursuant to the Nebraska Revenue
4 Act of 1967 on any deduction taken that is attributed to bad debts not
5 including interest. Bad debt has the same meaning as in 26 U.S.C. 166, as
6 such section existed on January 1, 2003. However, the amount calculated
7 pursuant to 26 U.S.C. 166 shall be adjusted to exclude: Financing charges
8 or interest; sales or use taxes charged on the purchase price;
9 uncollectible amounts on property that remains in the possession of the
10 seller until the full purchase price is paid; and expenses incurred in
11 attempting to collect any debt and repossessed property.

12 (ii) Bad debts may be deducted on the return for the period during
13 which the bad debt is written off as uncollectible in the claimant's
14 books and records and is eligible to be deducted for federal income tax
15 purposes. A claimant who is not required to file federal income tax
16 returns may deduct a bad debt on a return filed for the period in which
17 the bad debt is written off as uncollectible in the claimant's books and
18 records and would be eligible for a bad debt deduction for federal income
19 tax purposes if the claimant was required to file a federal income tax
20 return.

21 (iii) If a deduction is taken for a bad debt and the debt is
22 subsequently collected in whole or in part, the tax on the amount so
23 collected must be paid and reported on the return filed for the period in
24 which the collection is made.

25 (iv) When the amount of bad debt exceeds the amount of taxable sales
26 for the period during which the bad debt is written off, a refund claim
27 may be filed within the otherwise applicable statute of limitations for
28 refund claims. The statute of limitations shall be measured from the due
29 date of the return on which the bad debt could first be claimed.

30 (v) If filing responsibilities have been assumed by a certified
31 service provider, the service provider may claim, on behalf of the

1 retailer, any bad debt allowance provided by this section. The certified
2 service provider shall credit or refund the full amount of any bad debt
3 allowance or refund received to the retailer.

4 (vi) For purposes of reporting a payment received on a previously
5 claimed bad debt, any payments made on a debt or account are applied
6 first proportionally to the taxable price of the property or service and
7 the sales tax thereon, and secondly to interest, service charges, and any
8 other charges.

9 (vii) In situations in which the books and records of the party
10 claiming the bad debt allowance support an allocation of the bad debts
11 among the member states in the streamlined sales and use tax agreement,
12 the state shall permit the allocation.

13 (3) Beginning July 1, 2020, if a refund claim under this section
14 involves a refund of a tax imposed under the Local Option Revenue Act or
15 section 13-319, 13-2813, or 77-6403 and the amount of such tax to be
16 refunded is at least five thousand dollars, the Tax Commissioner shall
17 notify the affected city, village, county, or municipal county of such
18 claim within twenty days after receiving the claim. If the Tax
19 Commissioner allows the claim and the refund of such tax is at least five
20 thousand dollars, the Tax Commissioner shall notify the affected city,
21 village, county, or municipal county of such refund and shall give the
22 city, village, county, or municipal county the option of having such
23 refund deducted from its tax proceeds in one lump sum or in twelve equal
24 monthly installments. The city, village, county, or municipal county
25 shall make its selection and shall certify the selection to the Tax
26 Commissioner within twenty days after receiving notice of the refund. The
27 Tax Commissioner shall then deduct such refund from the applicable tax
28 proceeds in accordance with the selection when he or she deducts refunds
29 pursuant to section 13-324, 13-2814, 77-27,144, or 77-6403, whichever is
30 applicable.

31 2. Renumber the remaining sections and correct internal references

1 accordingly.

2 3. Correct the operative date and repealer sections so that the

3 sections added by this amendment become operative on October 1, 2021.