

AMENDMENTS TO LB814

Introduced by Revenue

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 37-201, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 37-201 Sections 37-201 to 37-811 and 37-1501 to 37-1510
6 and section 2 of this act shall be known and may be cited as the
7 Game Law.

8 Sec. 2. The Game and Parks Commission Capital Maintenance
9 Fund is created. The fund shall consist of money credited to the
10 fund pursuant to section 77-27,132, transfers authorized by the
11 Legislature, and any gifts, grants, bequests, or donations to the
12 fund. The fund shall be administered by the commission and shall
13 be used to build, repair, renovate, rehabilitate, restore, modify,
14 or improve any infrastructure within the statutory authority and
15 administration of the commission. Any money in the fund available
16 for investment shall be invested by the state investment officer
17 pursuant to the Nebraska Capital Expansion Act and the Nebraska
18 State Funds Investment Act.

19 Sec. 3. Section 77-2701.35, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-2701.35 (1) Sales price applies to the measure subject
22 to sales tax and means the total amount of consideration, including
23 cash, credit, property, and services, for which personal property

1 or services are sold, leased, or rented, valued in money, whether
2 received in money or otherwise, without any deduction for the
3 following:

4 (a) The seller's cost of the property sold;

5 (b) The cost of materials used, the cost of labor or
6 service, interest, losses, all costs of transportation to the
7 seller, all taxes imposed on the seller, and any other expense of
8 the seller;

9 (c) Charges by the seller for any services necessary to
10 complete the sale;

11 (d) Delivery charges; and

12 (e) Installation charges.

13 (2) Sales price includes consideration received by the
14 seller from third parties if:

15 (a) The seller actually receives consideration from a
16 party other than the purchaser and the consideration is directly
17 related to a price reduction or discount on the sale;

18 (b) The seller has an obligation to pass the price
19 reduction or discount through to the purchaser;

20 (c) The amount of the consideration attributable to the
21 sale is fixed and determinable by the seller at the time of the
22 sale of the item to the purchaser; and

23 (d) One of the following criteria is met:

24 (i) The purchaser presents a coupon, certificate, or
25 other documentation to the seller to claim a price reduction
26 or discount when the coupon, certificate, or documentation is
27 authorized, distributed, or granted by a third party with the

1 understanding that the third party will reimburse any seller to
2 whom the coupon, certificate, or documentation is presented;

3 (ii) The purchaser identifies himself or herself to the
4 seller as a member of a group or organization entitled to a price
5 reduction or discount. A preferred customer card that is available
6 to any patron does not constitute membership in such a group; or

7 (iii) The price reduction or discount is identified as a
8 third-party price reduction or discount on the invoice received by
9 the purchaser or on a coupon, certificate, or other documentation
10 presented by the purchaser.

11 (3) Sales price does not include:

12 (a) Any discounts, including cash, terms, or coupons that
13 are not reimbursed by a third party that are allowed by a seller
14 and taken by a purchaser on a sale;

15 (b) Interest, financing, and carrying charges from credit
16 extended on the sale of personal property or services, if the
17 amount is separately stated on the invoice, bill of sale, or
18 similar document given to the purchaser;

19 (c) Any taxes legally imposed directly on the consumer
20 that are separately stated on the invoice, bill of sale, or similar
21 document given to the purchaser; and

22 (d) Credit for any trade-in as follows:

23 (i) The value of property taken by a seller in trade as
24 all or a part of the consideration for a sale of property of any
25 kind or nature; or

26 (ii) The value of a motor vehicle, ~~or~~ motorboat,
27 all-terrain vehicle, or utility-type vehicle taken by any person in

1 trade as all or a part of the consideration for a sale of another
2 motor vehicle, ~~or~~ motorboat, all-terrain vehicle, or utility-type
3 vehicle.

4 Sec. 4. Section 77-2703, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

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

1 the retailer to maintain his or her books and records.

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

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

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

22 (d) For the purpose of more efficiently securing the
23 payment, collection, and accounting for the sales tax and for the
24 convenience of the retailer in collecting the sales tax, it shall
25 be the duty of the Tax Commissioner to provide a schedule or
26 schedules of the amounts to be collected from the consumer or user
27 to effectuate the computation and collection of the tax imposed

1 by the Nebraska Revenue Act of 1967. Such schedule or schedules
2 shall provide that the tax shall be collected from the consumer
3 or user uniformly on sales according to brackets based on sales
4 prices of the item or items. Retailers may compute the tax due on
5 any transaction on an item or an invoice basis. The rounding rule
6 provided in section 77-3,117 applies.

7 (e) The use of tokens or stamps for the purpose of
8 collecting or enforcing the collection of the taxes imposed in the
9 Nebraska Revenue Act of 1967 or for any other purpose in connection
10 with such taxes is prohibited.

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

26 (g) In the rental or lease of automobiles, trucks,
27 trailers, semitrailers, and truck-tractors as defined in the Motor

1 Vehicle Registration Act, the tax shall be collected by the lessor
2 on the rental or lease price, except as otherwise provided within
3 this section.

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

10 (i) Notice of the desire to make such election shall
11 be filed with the Tax Commissioner and shall not become effective
12 until the Tax Commissioner is satisfied that the taxpayer has
13 complied with all conditions of this subsection and all rules and
14 regulations of the Tax Commissioner;

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

18 (iii) When such election is made, it shall apply to all
19 vehicles of the lessor rented or leased for periods of one year or
20 more except vehicles to be leased to common or contract carriers
21 who provide to the lessor a valid common or contract carrier
22 exemption certificate. If the lessor rents or leases other vehicles
23 for periods of less than one year, such lessor shall maintain his
24 or her books and records and his or her accounting procedure as the
25 Tax Commissioner prescribes; and

26 (iv) The Tax Commissioner by rule and regulation shall
27 prescribe the contents and form of the notice of election, a

1 procedure for the determination of the tax base of vehicles which
2 are under an existing lease at the time such election becomes
3 effective, the method and manner for terminating such election, and
4 such other rules and regulations as may be necessary for the proper
5 administration of this subdivision.

6 (i) The tax imposed by this section on the sales of
7 motor vehicles, semitrailers, and trailers as defined in sections
8 60-339, 60-348, and 60-354 shall be the liability of the purchaser
9 and, with the exception of motor vehicles, semitrailers, and
10 trailers registered pursuant to section 60-3,198, the tax shall be
11 collected by the county treasurer as provided in the Motor Vehicle
12 Registration Act at the time the purchaser makes application for
13 the registration of the motor vehicle, semitrailer, or trailer for
14 operation upon the highways of this state. The tax imposed by this
15 section on motor vehicles, semitrailers, and trailers registered
16 pursuant to section 60-3,198 shall be collected by the Department
17 of Motor Vehicles at the time the purchaser makes application for
18 the registration of the motor vehicle, semitrailer, or trailer for
19 operation upon the highways of this state. At the time of the sale
20 of any motor vehicle, semitrailer, or trailer, the seller shall (i)
21 state on the sales invoice the dollar amount of the tax imposed
22 under this section and (ii) furnish to the purchaser a certified
23 statement of the transaction, in such form as the Tax Commissioner
24 prescribes, setting forth as a minimum the total sales price, the
25 allowance for any trade-in, and the difference between the two.
26 The sales tax due shall be computed on the difference between the
27 total sales price and the allowance for any trade-in as disclosed

1 by such certified statement. Any seller who willfully understates
2 the amount upon which the sales tax is due shall be subject to a
3 penalty of one thousand dollars. A copy of such certified statement
4 shall also be furnished to the Tax Commissioner. Any seller who
5 fails or refuses to furnish such certified statement shall be
6 guilty of a misdemeanor and shall, upon conviction thereof, be
7 punished by a fine of not less than twenty-five dollars nor more
8 than one hundred dollars. ~~If the seller fails to state on the sales~~
9 ~~invoice the dollar amount of the tax due,~~ the purchaser shall have
10 ~~the right and authority to rescind any agreement for purchase and~~
11 ~~to declare the purchase null and void.~~ If the purchaser retains
12 ~~such motor vehicle, semitrailer, or trailer in this state and~~
13 ~~does not register it such motor vehicle, semitrailer, or trailer~~
14 for operation on the highways of this state within thirty days
15 of the purchase thereof, the tax imposed by this section shall
16 immediately thereafter be paid by the purchaser to the county
17 treasurer or the Department of Motor Vehicles. If the tax is not
18 paid on or before the thirtieth day after its purchase, the county
19 treasurer or Department of Motor Vehicles shall also collect from
20 the purchaser interest from the thirtieth day through the date
21 of payment and sales tax penalties as provided in the Nebraska
22 Revenue Act of 1967. The county treasurer or Department of Motor
23 Vehicles shall report and remit the tax so collected to the Tax
24 Commissioner by the fifteenth day of the following month. The
25 county treasurer shall deduct and withhold for the use of the
26 county general fund, from all amounts required to be collected
27 under this subsection, the collection fee permitted to be deducted

1 by any retailer collecting the sales tax. The Department of Motor
2 Vehicles shall deduct, withhold, and deposit in the Motor Carrier
3 Division Cash Fund the collection fee permitted to be deducted by
4 any retailer collecting the sales tax. The collection fee shall be
5 forfeited if the county treasurer or Department of Motor Vehicles
6 violates any rule or regulation pertaining to the collection of the
7 use tax.

8 (j)(i) The tax imposed by this section on the sale of a
9 motorboat as defined in section 37-1204 shall be the liability of
10 the purchaser. The tax shall be collected by the county treasurer
11 at the time the purchaser makes application for the registration
12 of the motorboat. At the time of the sale of a motorboat, the
13 seller shall (A) state on the sales invoice the dollar amount
14 of the tax imposed under this section and (B) furnish to the
15 purchaser a certified statement of the transaction, in such form
16 as the Tax Commissioner prescribes, setting forth as a minimum
17 the total sales price, the allowance for any trade-in, and the
18 difference between the two. The sales tax due shall be computed
19 on the difference between the total sales price and the allowance
20 for any trade-in as disclosed by such certified statement. Any
21 seller who willfully understates the amount upon which the sales
22 tax is due shall be subject to a penalty of one thousand dollars.
23 A copy of such certified statement shall also be furnished to the
24 Tax Commissioner. Any seller who fails or refuses to furnish such
25 certified statement shall be guilty of a misdemeanor and shall,
26 upon conviction thereof, be punished by a fine of not less than
27 twenty-five dollars nor more than one hundred dollars. ~~If the~~

1 ~~seller fails to state on the sales invoice the dollar amount of~~
2 ~~the tax due, the purchaser shall have the right and authority to~~
3 ~~rescind any agreement for purchase and to declare the purchase~~
4 ~~null and void.~~ If the purchaser retains such motorboat in this
5 state and does not register it such motorboat within thirty days
6 of the purchase thereof, the tax imposed by this section shall
7 immediately thereafter be paid by the purchaser to the county
8 treasurer. If the tax is not paid on or before the thirtieth day
9 after its purchase, the county treasurer shall also collect from
10 the purchaser interest from the thirtieth day through the date of
11 payment and sales tax penalties as provided in the Nebraska Revenue
12 Act of 1967. The county treasurer shall report and remit the tax
13 so collected to the Tax Commissioner by the fifteenth day of the
14 following month. The county treasurer shall deduct and withhold for
15 the use of the county general fund, from all amounts required to be
16 collected under this subsection, the collection fee permitted to be
17 deducted by any retailer collecting the sales tax. The collection
18 fee shall be forfeited if the county treasurer violates any rule or
19 regulation pertaining to the collection of the use tax.

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

22 (k) (i) The tax imposed by this section on the sale of an
23 all-terrain vehicle as defined in section 60-103 or a utility-type
24 vehicle as defined in section 60-135.01 shall be the liability of
25 the purchaser. The tax shall be collected by the county treasurer
26 at the time the purchaser makes application for the titling of
27 the all-terrain vehicle or utility-type vehicle. At the time of

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

1 from all amounts required to be collected under this subsection,
2 the collection fee permitted to be deducted by any retailer
3 collecting the sales tax. The collection fee shall be forfeited if
4 the county treasurer violates any rule or regulation pertaining to
5 the collection of the use tax.

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

9 ~~(k)~~ (l) The Tax Commissioner shall adopt and promulgate
10 necessary rules and regulations for determining the amount subject
11 to the taxes imposed by this section so as to insure that the
12 full amount of any applicable tax is paid in cases in which a
13 sale is made of which a part is subject to the taxes imposed by
14 this section and a part of which is not so subject and a separate
15 accounting is not practical or economical.

16 (2) A use tax is hereby imposed on the storage, use, or
17 other consumption in this state of property purchased, leased, or
18 rented from any retailer and on any transaction the gross receipts
19 of which are subject to tax under subsection (1) of this section
20 on or after June 1, 1967, for storage, use, or other consumption
21 in this state at the rate set as provided in subsection (1) of
22 this section on the sales price of the property or, in the case of
23 leases or rentals, of the lease or rental prices.

24 (a) Every person storing, using, or otherwise consuming
25 in this state property purchased from a retailer or leased or
26 rented from another person for such purpose shall be liable for the
27 use tax at the rate in effect when his or her liability for the

1 use tax becomes certain under the accounting basis used to maintain
2 his or her books and records. His or her liability shall not be
3 extinguished until the use tax has been paid to this state, except
4 that a receipt from a retailer engaged in business in this state
5 or from a retailer who is authorized by the Tax Commissioner, under
6 such rules and regulations as he or she may prescribe, to collect
7 the sales tax and who is, for the purposes of the Nebraska Revenue
8 Act of 1967 relating to the sales tax, regarded as a retailer
9 engaged in business in this state, which receipt is given to the
10 purchaser pursuant to subdivision (b) of this subsection, shall be
11 sufficient to relieve the purchaser from further liability for the
12 tax to which the receipt refers.

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

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

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

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

24 (e) For the purpose of the proper administration of the
25 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,
26 it shall be presumed that property sold, leased, or rented by any
27 person for delivery in this state is sold, leased, or rented for

1 storage, use, or other consumption in this state until the contrary
2 is established. The burden of proving the contrary is upon the
3 person who purchases, leases, or rents the property.

4 (f) For the purpose of the proper administration of the
5 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,
6 for the sale of property to an advertising agency which purchases
7 the property as an agent for a disclosed or undisclosed principal,
8 the advertising agency is and remains liable for the sales and
9 use tax on the purchase the same as if the principal had made the
10 purchase directly.

11 Sec. 5. Section 77-2708, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 77-2708 (1)(a) The sales and use taxes imposed by the
14 Nebraska Revenue Act of 1967 shall be due and payable to the
15 Tax Commissioner monthly on or before the twentieth day of the
16 month next succeeding each monthly period unless otherwise provided
17 pursuant to the Nebraska Revenue Act of 1967.

18 (b)(i) On or before the twentieth day of the month
19 following each monthly period or such other period as the Tax
20 Commissioner may require, a return for such period, along with all
21 taxes due, shall be filed with the Tax Commissioner in such form
22 and content as the Tax Commissioner may prescribe and containing
23 such information as the Tax Commissioner deems necessary for the
24 proper administration of the Nebraska Revenue Act of 1967. The Tax
25 Commissioner, if he or she deems it necessary in order to insure
26 payment to or facilitate the collection by the state of the amount
27 of sales or use taxes due, may require returns and payment of the

1 amount of such taxes for periods other than monthly periods in the
2 case of a particular seller, retailer, or purchaser, as the case
3 may be. The Tax Commissioner shall by rule and regulation require
4 reports and tax payments from sellers, retailers, or purchasers
5 depending on their yearly tax liability. Except as required by
6 the streamlined sales and use tax agreement, annual returns shall
7 be required if such sellers', retailers', or purchasers' yearly
8 tax liability is less than nine hundred dollars, quarterly returns
9 shall be required if their yearly tax liability is nine hundred
10 dollars or more and less than three thousand dollars, and monthly
11 returns shall be required if their yearly tax liability is three
12 thousand dollars or more. The Tax Commissioner shall have the
13 discretion to allow an annual return for seasonal retailers, even
14 when their yearly tax liability exceeds the amounts listed in this
15 subdivision.

16 The Tax Commissioner may adopt and promulgate rules
17 and regulations to allow annual, semiannual, or quarterly returns
18 for any retailer making monthly remittances or payments of sales
19 and use taxes by electronic funds transfer or for any retailer
20 remitting tax to the state pursuant to the streamlined sales and
21 use tax agreement. Such rules and regulations may establish a
22 method of determining the amount of the payment that will result in
23 substantially all of the tax liability being paid each quarter. At
24 least once each year, the difference between the amount paid and
25 the amount due shall be reconciled. If the difference is more than
26 ten percent of the amount paid, a penalty of fifty percent of the
27 unpaid amount shall be imposed.

1 (ii) For purposes of the sales tax, a return shall be
2 filed by every retailer liable for collection from a purchaser and
3 payment to the state of the tax, except that a combined sales tax
4 return may be filed for all licensed locations which are subject
5 to common ownership. For purposes of this subdivision, common
6 ownership means the same person or persons own eighty percent or
7 more of each licensed location. For purposes of the use tax, a
8 return shall be filed by every retailer engaged in business in this
9 state and by every person who has purchased property, the storage,
10 use, or other consumption of which is subject to the use tax, but
11 who has not paid the use tax due to a retailer required to collect
12 the tax.

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

16 (iv) A taxpayer who keeps his or her regular books
17 and records on a cash basis, an accrual basis, or any generally
18 recognized accounting basis which correctly reflects the operation
19 of the business may file the sales and use tax returns required
20 by the Nebraska Revenue Act of 1967 on the same accounting basis
21 that is used for the regular books and records, except that on
22 credit, conditional, and installment sales, the retailer who keeps
23 his or her books on an accrual basis may report such sales on
24 the cash basis and pay the tax upon the collections made during
25 each month. If a taxpayer transfers, sells, assigns, or otherwise
26 disposes of an account receivable, he or she shall be deemed
27 to have received the full balance of the consideration for the

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

21 (c) Except as provided in the streamlined sales and use
22 tax agreement, the taxpayer required to file the return shall
23 deliver or mail any required return together with a remittance of
24 the net amount of the tax due to the office of the Tax Commissioner
25 on or before the required filing date. Failure to file the return,
26 filing after the required filing date, failure to remit the net
27 amount of the tax due, or remitting the net amount of the tax due

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

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

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

26 (b) No refund shall be allowed unless a claim therefor
27 is filed with the Tax Commissioner by the person who made the

1 overpayment or his or her attorney, executor, or administrator
2 within three years from the required filing date following the
3 close of the period for which the overpayment was made, within six
4 months after any determination becomes final under section 77-2709,
5 or within six months from the date of overpayment with respect
6 to such determinations, whichever of these three periods expires
7 later, unless the credit relates to a period for which a waiver has
8 been given. Failure to file a claim within the time prescribed in
9 this subsection shall constitute a waiver of any demand against the
10 state on account of overpayment.

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

15 (d) The Tax Commissioner shall allow or disallow
16 a claim within one hundred eighty days after it has been
17 filed. A request for a hearing shall constitute a waiver of
18 the one-hundred-eighty-day period. The claimant and the Tax
19 Commissioner may also agree to extend the one-hundred-eighty-day
20 period. If a hearing has not been requested and the Tax
21 Commissioner has neither allowed nor disallowed a claim within
22 either the one hundred eighty days or the period agreed to by the
23 claimant and the Tax Commissioner, the claim shall be deemed to
24 have been allowed.

25 (e) Within thirty days after disallowing any claim in
26 whole or in part, the Tax Commissioner shall serve notice of his or
27 her action on the claimant in the manner prescribed for service of

1 notice of a deficiency determination.

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

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

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

24 (i) The Tax Commissioner may recover any refund or part
25 thereof which is erroneously made and any credit or part thereof
26 which is erroneously allowed by issuing a deficiency determination
27 within one year from the date of refund or credit or within the

1 period otherwise allowed for issuing a deficiency determination,
2 whichever expires later.

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

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

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

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

7 (v) If filing responsibilities have been assumed by a
8 certified service provider, the service provider may claim, on
9 behalf of the retailer, any bad debt allowance provided by this
10 section. The certified service provider shall credit or refund the
11 full amount of any bad debt allowance or refund received to the
12 retailer.

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

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

22 Sec. 6. Section 77-27,132, Revised Statutes Cumulative
23 Supplement, 2012, is amended to read:

24 77-27,132 (1) There is hereby created a fund to be
25 designated the Revenue Distribution Fund which shall be set apart
26 and maintained by the Tax Commissioner. Revenue not required to be
27 credited to the General Fund or any other specified fund may be

1 credited to the Revenue Distribution Fund. Credits and refunds of
2 such revenue shall be paid from the Revenue Distribution Fund. The
3 balance of the amount credited, after credits and refunds, shall be
4 allocated as provided by the statutes creating such revenue.

5 (2) The Tax Commissioner shall pay to a depository bank
6 designated by the State Treasurer all amounts collected under the
7 Nebraska Revenue Act of 1967. The Tax Commissioner shall present
8 to the State Treasurer bank receipts showing amounts so deposited
9 in the bank, and of the amounts so deposited the State Treasurer
10 shall:

11 (a) For transactions occurring on or after October 1,
12 2014, and before October 1, 2019, credit to the Game and Parks
13 Commission Capital Maintenance Fund all of the proceeds of the
14 sales and use taxes imposed pursuant to section 77-2703 on the
15 sale or lease of motorboats as defined in section 37-1204, personal
16 watercraft as defined in section 37-1204.01, all-terrain vehicles
17 as defined in section 60-103, and utility-type vehicles as defined
18 in section 60-135.01;

19 ~~(a)~~ (b) Credit to the Highway Trust Fund all of the
20 proceeds of the sales and use taxes derived from the sale or
21 lease for periods of more than thirty-one days of motor vehicles,
22 trailers, and semitrailers, except that the proceeds equal to any
23 sales tax rate provided for in section 77-2701.02 that is in excess
24 of five percent derived from the sale or lease for periods of more
25 than thirty-one days of motor vehicles, trailers, and semitrailers
26 shall be credited to the Highway Allocation Fund; and

27 ~~(b)~~ (c) For transactions occurring on or after July 1,

1 2013, and before July 1, 2033, of the proceeds of the sales
2 and use taxes derived from transactions other than those listed
3 in ~~subdivision~~ subdivisions (2)(a) and (b) of this section from
4 a sales tax rate of one-quarter of one percent, credit monthly
5 eighty-five percent to the State Highway Capital Improvement Fund
6 and fifteen percent to the Highway Allocation Fund.

7 The balance of all amounts collected under the Nebraska
8 Revenue Act of 1967 shall be credited to the General Fund.

9 Sec. 7. This act becomes operative on October 1, 2014.

10 Sec. 8. Original section 77-2701.35, Reissue Revised
11 Statutes of Nebraska, and sections 37-201, 77-2703, 77-2708,
12 and 77-27,132, Revised Statutes Cumulative Supplement, 2012, are
13 repealed.