

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1114

Introduced by Flood, 19.

Read first time January 19, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-27,139.01, 77-27,139.04, and 77-27,144, Reissue
3 Revised Statutes of Nebraska, and sections 13-2814,
4 77-27,139.02, and 77-27,139.03, Revised Statutes
5 Supplement, 2011; to change distribution of the Municipal
6 Equalization Fund and aid to municipalities; to eliminate
7 collection fees; to harmonize provisions; to provide an
8 operative date; to repeal the original sections; and to
9 declare an emergency.

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

1 Section 1. Section 13-2814, Revised Statutes Supplement,
2 2011, is amended to read:

3 13-2814 (1) The Tax Commissioner shall administer all
4 sales and use taxes adopted under section 13-2813. The Tax
5 Commissioner may prescribe forms and adopt and promulgate rules and
6 regulations in conformity with the Nebraska Revenue Act of 1967, as
7 amended, for the making of returns and for the ascertainment,
8 assessment, and collection of taxes. The council shall furnish a
9 certified copy of the adopting or repealing resolution to the Tax
10 Commissioner in accordance with such rules and regulations. The tax
11 shall begin the first day of the next calendar quarter following
12 receipt by the Tax Commissioner of the certified copy of the adopted
13 resolution if the certified copy of the adopted resolution is
14 received sixty days prior to the start of the next calendar quarter.

15 (2) For resolutions containing a termination date, the
16 termination date is the first day of a calendar quarter. The council
17 shall furnish a certified statement to the Tax Commissioner no more
18 than one hundred twenty days and at least sixty days before the
19 termination date stating that the termination date in the resolution
20 is still valid. If the certified statement is not furnished within
21 the prescribed time, the tax shall remain in effect and the Tax
22 Commissioner shall continue to collect the tax until the first day of
23 the calendar quarter which is at least sixty days after receipt of
24 the certified statement notwithstanding the termination date stated
25 in the resolution.

1 (3) The Tax Commissioner shall collect the sales and use
2 tax concurrently with collection of a state tax in the same manner as
3 the state tax is collected. The Tax Commissioner shall remit monthly
4 the proceeds of the tax to the municipal county imposing the tax,
5 after deducting the amount of refunds made, ~~and three percent of the~~
6 ~~remainder as an administrative fee necessary to defray the cost of~~
7 ~~collecting the tax and the expenses incident thereto.~~ The Tax
8 Commissioner shall keep full and accurate records of all money
9 received and distributed. ~~All receipts from the three percent~~
10 ~~administrative fee shall be deposited in the Municipal Equalization~~
11 ~~Fund.~~

12 (4) Upon any claim of illegal assessment and collection,
13 the taxpayer has the same remedies as provided for claims of illegal
14 assessment and collection of the state tax. It is the intention of
15 the Legislature that the provisions of law which apply to the
16 recovery of state taxes illegally assessed and collected apply to the
17 recovery of sales and use taxes illegally assessed and collected
18 under section 13-2813.

19 Sec. 2. Section 77-27,139.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-27,139.01 The Municipal Equalization Fund is hereby
22 created. The fund shall be used to provide state aid to equalize the
23 property tax capacity of incorporated cities of the second class and
24 villages. Any money in the fund available for investment shall be
25 invested by the state investment officer pursuant to the Nebraska

1 Capital Expansion Act and the Nebraska State Funds Investment Act.

2 Sec. 3. Section 77-27,139.02, Revised Statutes
3 Supplement, 2011, is amended to read:

4 77-27,139.02 For purposes of sections 77-27,139.01 to
5 77-27,139.04:

6 (1) Average per capita property tax levy means the total
7 property taxes levied by all ~~incorporated~~ municipalities in each
8 population group for the immediately preceding fiscal year, except
9 for the amount of property tax levies committed to provide for
10 principal and interest payments on the indebtedness of all
11 ~~incorporated~~ municipalities, divided by the current population of all
12 ~~incorporated~~ municipalities as certified by the Department of Revenue
13 pursuant to section 77-3,119. The average per capita property tax
14 levy shall be calculated separately for each population group;

15 (2) Average property tax levy means the total property
16 taxes levied by all ~~incorporated~~ municipalities for the prior year,
17 except for the amount of property tax levies committed to provide for
18 principal and interest payments on the indebtedness of all
19 ~~incorporated~~ municipalities, divided by the total amount of valuation
20 subject to property tax in all ~~incorporated~~ municipalities for the
21 immediately preceding fiscal year;

22 (3) Municipality means incorporated cities of the second
23 class and villages;

24 ~~(3)-(4)~~ Population means the population of a municipality
25 as determined in section 77-3,119; and

1 ~~(4)~~(5) Population group means one of ~~three~~two groupings
2 of municipalities for which the aid established by sections
3 77-27,139.01 to 77-27,139.04 is calculated based on the average per
4 capita property tax levy calculated separately for each group. The
5 ~~three~~two population groups shall be (a) ~~municipalities with a~~
6 ~~population of five thousand inhabitants or more,~~ (b) municipalities
7 with a population between eight hundred and five thousand
8 inhabitants, and ~~(c)~~(b) municipalities with a population of eight
9 hundred inhabitants or less.

10 Sec. 4. Section 77-27,139.03, Revised Statutes
11 Supplement, 2011, is amended to read:

12 77-27,139.03 (1) State aid provided to municipalities
13 pursuant to sections 77-27,139.01 to 77-27,139.04 shall be calculated
14 by determining the average property tax levy for operational purposes
15 other than for principal and interest payments on the indebtedness of
16 all ~~incorporated~~ municipalities. The Auditor of Public Accounts shall
17 provide to the Department of Revenue a list of the bond and nonbond
18 tax request amounts from the most recent budgets filed by
19 ~~incorporated~~ municipalities. The information shall be used to
20 calculate the bond and nonbond tax levies for aid purposes under this
21 section. The auditor shall provide the information to the department
22 by February 1 each year.

23 (2) Each municipality shall receive state aid from the
24 Municipal Equalization Fund equal to (a) the product of the average
25 per capita property tax of the appropriate population group

1 multiplied by the current population of the municipality minus (b)
2 the product of the average property tax levy multiplied by the
3 certified valuation within the ~~incorporated~~ municipality, except that
4 a municipality shall not receive any aid under this section if the
5 calculation results in a negative number.

6 (3) If a municipal tax levy for operational purposes was
7 less than the average property tax levy in the immediately preceding
8 fiscal year, the state aid provided to such municipality shall be
9 reduced by twenty percent for each one-cent increment the levy was
10 below the average property tax levy.

11 (4) If the amount of money in the Municipal Equalization
12 Fund is less than the total amount of state aid for all
13 municipalities as required by the allocation formula in subsection
14 (2) of this section, the money in the fund shall be allocated on a
15 prorated basis to such municipalities. If the amount of money in the
16 fund is more than the total amount of state aid for municipalities as
17 required by the allocation formula, the excess money in the fund
18 shall be credited to the General Fund.

19 Sec. 5. Section 77-27,139.04, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-27,139.04 The Department of Revenue shall determine
22 the amount to be distributed to the various municipalities and
23 certify such amounts by voucher to the Director of Administrative
24 Services. The Municipal Equalization Fund shall be distributed on or
25 before the first day of October, January, April, and July of each

1 state fiscal year, ~~beginning in fiscal year 1998-99.~~ The director
2 shall, upon receipt of such notification and vouchers, draw warrants
3 against funds appropriated. The proceeds of the payments received by
4 the various municipalities shall be credited to the general fund of
5 the municipality.

6 Sec. 6. Section 77-27,144, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-27,144 The Tax Commissioner shall collect the tax
9 imposed by any incorporated municipality concurrently with collection
10 of a state tax in the same manner as the state tax is collected. The
11 Tax Commissioner shall remit monthly the proceeds of the tax to the
12 incorporated municipalities levying the tax, after deducting the
13 amount of refunds made, ~~and three percent of the remainder to be~~
14 ~~credited to the Municipal Equalization Fund.~~ The Tax Commissioner
15 shall keep full and accurate records of all money received and
16 distributed under the provisions of the Local Option Revenue Act.
17 When proceeds of a tax levy are received but the identity of the
18 incorporated municipality which levied the tax is unknown and is not
19 identified within six months after receipt, the amount shall be
20 credited to the Municipal Equalization Fund. The municipality may
21 request the names and addresses of the retailers which have collected
22 the tax as provided in section 77-2711.

23 Sec. 7. This act becomes operative on July 1, 2012.

24 Sec. 8. Original sections 77-27,139.01, 77-27,139.04, and
25 77-27,144, Reissue Revised Statutes of Nebraska, and sections

1 13-2814, 77-27,139.02, and 77-27,139.03, Revised Statutes Supplement,
2 2011, are repealed.

3 Sec. 9. Since an emergency exists, this act takes effect
4 when passed and approved according to law.