

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 550

Introduced by Harr, 8; Pansing Brooks, 28.

Read first time January 21, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Municipal Equalization Fund; to amend
- 2 section 13-2814, Reissue Revised Statutes of Nebraska, and sections
- 3 77-27,139.03 and 77-27,144, Revised Statutes Cumulative Supplement,
- 4 2014; to change funding; to eliminate collection fees; to provide an
- 5 operative date; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-2814, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

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

24 (3) The Tax Commissioner shall collect the sales and use tax
25 concurrently with collection of a state tax in the same manner as the
26 state tax is collected. The Tax Commissioner shall remit monthly the
27 proceeds of the tax to the municipal county imposing the tax, after
28 deducting the amount of refunds made ~~and three percent of the remainder~~
29 ~~as an administrative fee necessary to defray the cost of collecting the~~
30 ~~tax and the expenses incident thereto.~~ The Tax Commissioner shall keep
31 full and accurate records of all money received and distributed.—All

1 ~~receipts from the three percent administrative fee shall be deposited in~~
2 ~~the Municipal Equalization Fund.~~

3 (4) Upon any claim of illegal assessment and collection, the
4 taxpayer has the same remedies as provided for claims of illegal
5 assessment and collection of the state tax. It is the intention of the
6 Legislature that the provisions of law which apply to the recovery of
7 state taxes illegally assessed and collected apply to the recovery of
8 sales and use taxes illegally assessed and collected under section
9 13-2813.

10 Sec. 2. Section 77-27,139.03, Revised Statutes Cumulative
11 Supplement, 2014, is amended to read:

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

22 (2) Each municipality shall receive state aid from the Municipal
23 Equalization Fund equal to (a) the product of the average per capita
24 property tax of the appropriate population group multiplied by the
25 current population of the municipality minus (b) the product of the
26 average property tax levy multiplied by the certified valuation within
27 the incorporated municipality, except that a municipality shall not
28 receive any aid under this section if the calculation results in a
29 negative number.

30 (3) If a municipal tax levy for operational purposes was less than
31 the average property tax levy in the immediately preceding fiscal year,

1 the state aid provided to such municipality shall be reduced by twenty
2 percent for each one-cent increment the levy was below the average
3 property tax levy but the reduction shall not exceed eighty percent.

4 (4) If the amount of money in the Municipal Equalization Fund is
5 less than the total amount of state aid for all municipalities as
6 required by the allocation formula in subsection (2) of this section, the
7 money in the fund shall be supplemented with General Funds limited to an
8 amount that is the equivalent of three percent of the sales and use taxes
9 collected by the Tax Commissioner for sales and use taxes imposed by a
10 municipal county pursuant to section 13-2813 and an incorporated
11 municipality pursuant to section 77-27,142. If, after General Fund
12 supplementation, the amount of money in the Municipal Equalization Fund
13 remains less than the total amount of state aid required, the money in
14 the fund shall be allocated on a prorated basis to such municipalities.
15 If the amount of money in the fund is more than the total amount of state
16 aid for municipalities as required by the allocation formula, the excess
17 money in the fund shall be credited to the General Fund.

18 Sec. 3. Section 77-27,144, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 77-27,144 (1) The Tax Commissioner shall collect the tax imposed by
21 any incorporated municipality concurrently with collection of a state tax
22 in the same manner as the state tax is collected. The Tax Commissioner
23 shall remit monthly the proceeds of the tax to the incorporated
24 municipalities levying the tax, after deducting the amount of refunds
25 ~~made and three percent of the remainder to be credited to the Municipal~~
26 ~~Equalization Fund.~~

27 (2) Deductions for a refund made pursuant to section 77-4105,
28 77-4106, 77-5725, or 77-5726 shall be delayed for one year after the
29 refund has been made to the taxpayer. The Department of Revenue shall
30 notify the municipality liable for a refund exceeding one thousand five
31 hundred dollars of the pending refund, the amount of the refund, and the

1 month in which the deduction will be made or begin, except that if the
2 amount of a refund claimed under section 77-4105, 77-4106, 77-5725, or
3 77-5726 exceeds twenty-five percent of the municipality's total sales and
4 use tax receipts, net of any refunds or sales tax collection fees, for
5 the municipality's prior fiscal year, the department shall deduct the
6 refund over the period of one year in equal monthly amounts beginning
7 after the one-year notification period required by this subsection. This
8 subsection applies to refunds owed by cities of the first class, cities
9 of the second class, and villages. This subsection applies to refunds
10 beginning January 1, 2014.

11 (3) The Tax Commissioner shall keep full and accurate records of all
12 money received and distributed under the provisions of the Local Option
13 Revenue Act. When proceeds of a tax levy are received but the identity of
14 the incorporated municipality which levied the tax is unknown and is not
15 identified within six months after receipt, the amount shall be credited
16 to the Municipal Equalization Fund. The municipality may request the
17 names and addresses of the retailers which have collected the tax as
18 provided in subsection (13) of section 77-2711 and may certify an
19 individual to request and review confidential sales and use tax returns
20 and sales and use tax return information as provided in subsection (14)
21 of section 77-2711.

22 Sec. 4. This act becomes operative on October 1, 2015.

23 Sec. 5. Original section 13-2814, Reissue Revised Statutes of
24 Nebraska, and sections 77-27,139.03 and 77-27,144, Revised Statutes
25 Cumulative Supplement, 2014, are repealed.