

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 357**

Final Reading

Introduced by Ashford, 20; Cornett, 45.

Read first time January 13, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Local Option Revenue Act; to amend  
2 sections 77-27,142, 77-27,142.01, and 77-27,142.02,  
3 Reissue Revised Statutes of Nebraska; to change and  
4 eliminate provisions relating to increases in sales and  
5 use taxes; to harmonize provisions; and to repeal the  
6 original sections.

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

1           Section 1. Section 77-27,142, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-27,142 (1) Any incorporated municipality by ordinance  
4 of its governing body is hereby authorized to impose a sales and use  
5 tax of one-half percent, one percent, ~~or one and one-half percent,~~  
6 one and three-quarters percent, or two percent upon the same  
7 transactions that are sourced under the provisions of sections  
8 77-2703.01 to 77-2703.04 within such incorporated municipality on  
9 which the State of Nebraska is authorized to impose a tax pursuant to  
10 the Nebraska Revenue Act of 1967, as amended from time to time. No  
11 sales and use tax shall be imposed pursuant to this section until an  
12 election has been held and a majority of the qualified electors have  
13 approved such tax pursuant to sections 77-27,142.01 and 77-27,142.02.

14           (2)(a) Any incorporated municipality that proposes to  
15 impose a municipal sales and use tax at a rate greater than one and  
16 one-half percent or increase a municipal sales and use tax to a rate  
17 greater than one and one-half percent shall submit the question of  
18 such tax or increase at a primary or general election held within the  
19 incorporated municipality. The question shall be submitted upon an  
20 affirmative vote by at least seventy percent of all of the members of  
21 the governing body of the incorporated municipality.

22           (b) Any rate greater than one and one-half percent shall  
23 be used as follows:

24           (i) In a city of the metropolitan class, the proceeds  
25 from the first one-quarter percent of the rate greater than one and

1 one-half percent shall be used to reduce other taxes, the proceeds  
2 from the next one-eighth percent of the rate greater than one and  
3 one-half percent shall be used for public infrastructure projects,  
4 and the proceeds from the next one-eighth percent of the rate greater  
5 than one and one-half percent shall be used for purposes of the  
6 interlocal agreement or joint public agency agreement described in  
7 subsection (3) of this section;

8 (ii) In a city of the primary class, up to fifteen  
9 percent of the proceeds from the rate in excess of one and one-half  
10 percent may be used for non-public infrastructure projects of an  
11 interlocal agreement or joint public agency agreement with another  
12 political subdivision within the municipality or the county in which  
13 the municipality is located, and the remaining proceeds shall be used  
14 for public infrastructure projects or voter-approved infrastructure  
15 related to an economic development program as defined in section  
16 18-2705; and

17 (iii) In any incorporated municipality other than a city  
18 of the metropolitan or primary class, the proceeds from the rate in  
19 excess of one and one-half percent shall be used for public  
20 infrastructure projects or voter-approved infrastructure related to  
21 an economic development program as defined in section 18-2705.

22 For purposes of this section, public infrastructure  
23 project means and includes, but is not limited to, any of the  
24 following projects, or any combination thereof: Public highways and  
25 bridges and municipal roads, streets, bridges, and sidewalks; solid

1 waste management facilities; wastewater, storm water, and water  
2 treatment works and systems, water distribution facilities, and water  
3 resources projects, including, but not limited to, pumping stations,  
4 transmission lines, and mains and their appurtenances; hazardous  
5 waste disposal systems; resource recovery systems; airports; port  
6 facilities; buildings and capital equipment used in the operation of  
7 municipal government; convention and tourism facilities;  
8 redevelopment projects as defined in section 18-2103; mass transit  
9 and other transportation systems, including parking facilities; and  
10 equipment necessary for the provision of municipal services.

11 (c) Any rate greater than one and one-half percent shall  
12 terminate no more than ten years after its effective date or, if  
13 bonds are issued and the local option sales and use tax revenue is  
14 pledged for payment of such bonds, upon payment of such bonds and any  
15 refunding bonds, whichever date is later, except as provided in  
16 subdivision (2)(d) of this section.

17 (d) If a portion of the rate greater than one and one-  
18 half percent is stated in the ballot question as being imposed for  
19 the purpose of the interlocal agreement or joint public agency  
20 agreement described in subdivision (2)(b)(ii) or subsection (3) of  
21 this section, and such portion is at least one-eighth percent, there  
22 shall be no termination date for the rate representing such portion  
23 rounded to the next higher one-quarter or one-half percent.

24 (e) Sections 13-518 to 13-522 apply to the revenue from  
25 any such tax or increase.

1           (3)(a) No municipal sales and use tax shall be imposed at  
2 a rate greater than one and one-half percent or increased to a rate  
3 greater than one and one-half percent unless the municipality is a  
4 party to an interlocal agreement pursuant to the Interlocal  
5 Cooperation Act or a joint public agency agreement pursuant to the  
6 Joint Public Agency Act with a political subdivision within the  
7 municipality or the county in which the municipality is located  
8 creating a separate legal or administrative entity relating to a  
9 public infrastructure project.

10           (b) Except as provided in subdivision (2)(b)(ii) of this  
11 section, such interlocal agreement or joint public agency agreement  
12 shall contain provisions, including benchmarks, relating to the long-  
13 term development of unified governance of public infrastructure  
14 projects with respect to the parties. The Legislature may provide  
15 additional requirements for such agreements, including benchmarks,  
16 but such additional requirements shall not apply to any debt  
17 outstanding at the time the Legislature enacts such additional  
18 requirements. The separate legal or administrative entity created  
19 shall not be one that was in existence for one calendar year  
20 preceding the submission of the question of such tax or increase at a  
21 primary or general election held within the incorporated  
22 municipality.

23           (c) Any other public agency as defined in section 13-803  
24 may be a party to such interlocal cooperation agreement or joint  
25 public agency agreement.

1           (d) A municipality is not required to use all of the  
2 additional revenue generated by a sales and use tax imposed at a rate  
3 greater than one and one-half percent or increased to a rate greater  
4 than one and one-half percent under this subsection for the purposes  
5 of the interlocal cooperation agreement or joint public agency  
6 agreement set forth in this subsection.

7           (4) The provisions of subsections (2) and (3) of this  
8 section do not apply to the first one and one-half percent of a sales  
9 and use tax imposed by a municipality.

10           (5) Notwithstanding any provision of any municipal  
11 charter, any incorporated municipality or interlocal agency or joint  
12 public agency pursuant to an agreement as provided in subsection (3)  
13 of this section may issue bonds in one or more series for any  
14 municipal purpose and pay the principal of and interest on any such  
15 bonds by pledging receipts from the increase in the municipal sales  
16 and use taxes authorized by such municipality. Any municipality which  
17 has or may issue bonds under this section may dedicate a portion of  
18 its property tax levy authority as provided in section 77-3442 to  
19 meet debt service obligations under the bonds. For purposes of this  
20 subsection, bond means any evidence of indebtedness, including, but  
21 not limited to, bonds, notes including notes issued pending long-term  
22 financing arrangements, warrants, debentures, obligations under a  
23 loan agreement or a lease-purchase agreement, or any similar  
24 instrument or obligation.

25           (2) A city of the metropolitan class is hereby authorized

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

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

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

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

25           Sec. 2. Section 77-27,142.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           77-27,142.01 (1) The governing body of any incorporated  
3 municipality may submit the question of changing any terms and  
4 conditions of a sales and use tax previously authorized under section  
5 77-27,142. Except as otherwise provided by section 77-27,142, the ~~The~~  
6 question of modification shall be submitted to the voters at any  
7 primary or general election or at a special election if the governing  
8 body submits a certified copy of the resolution proposing  
9 modification to the election commissioner or county clerk within the  
10 time prior to the primary, general, or special election prescribed in  
11 section 77-27,142.02.

12           (2) If the change imposes a sales and use tax at a rate  
13 greater than one and one-half percent or increases the sales and use  
14 tax to a rate greater than one and one-half percent, the question  
15 shall include, but not be limited to:

16           (a) The percentage increase of one-quarter percent or  
17 one-half percent in the sales and use tax rate;

18           (b) A list of reductions or elimination of other taxes or  
19 fees, if any;

20           (c) A description of the projects to be funded, in whole  
21 or in part, from the revenue collected, along with any savings or  
22 efficiencies resulting from the projects;

23           (d) The year or years within which the revenue will be  
24 collected and, if bonds will be issued with some or all of the  
25 revenue pledged for payment of such bonds, a statement that the

1 revenue will be collected until the payment in full of such bonds and  
2 any refunding bonds; and

3 (e)(i) The percentage of revenue collected to be used for  
4 the purposes of the interlocal agreement or joint public agency  
5 agreement as provided in subdivision (2)(b)(ii) or subsection (3) of  
6 section 77-27,142; (ii) a statement of the overall purpose of the  
7 agreement which is the long-term development of unified governance of  
8 public infrastructure projects, if applicable; and (iii) the name of  
9 any other political subdivision which is a party to the agreement.

10 This subsection does not apply to the first one and one-  
11 half percent of a sales and use tax imposed by a municipality.

12 Sec. 3. Section 77-27,142.02, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 77-27,142.02 Except as otherwise provided by subsection  
15 (2) of section 77-27,142, after February 14, 1978, the power granted  
16 by section 77-27,142 shall not be exercised unless and until the  
17 question has been submitted at a primary, general, or special  
18 election held within the incorporated municipality and in which all  
19 qualified electors shall be entitled to vote on such question. The  
20 officials of the incorporated municipality shall order the submission  
21 of the question by submitting a certified copy of the resolution  
22 proposing the tax to the election commissioner or county clerk by  
23 March 1 for a primary election, by September 1 for a general  
24 election, or at least fifty days before a special election. ~~The~~  
25 Except as otherwise provided by subsection (2) of section

1 77-27,142.01, the question may include any terms and conditions set  
2 forth in the resolution proposing the tax, such as a termination date  
3 or the specific project or program for which the revenue received  
4 from such tax will be allocated, and shall include the following  
5 language: Shall the governing body of the incorporated municipality  
6 impose a sales and use tax upon the same transactions within such  
7 municipality on which the State of Nebraska is authorized to impose a  
8 tax? If a majority of the votes cast upon such question shall be in  
9 favor of such tax, then the governing body of such incorporated  
10 municipality shall be empowered as provided by section 77-27,142 and  
11 shall forthwith proceed to impose a tax pursuant to the Local Option  
12 Revenue Act. If a majority of those voting on the question shall be  
13 opposed to such tax, then the governing body of the incorporated  
14 municipality shall not impose such a tax.

15           Sec. 4. Original sections 77-27,142, 77-27,142.01, and  
16 77-27,142.02, Reissue Revised Statutes of Nebraska, are repealed.