

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 414**

Introduced by Schumacher, 22.

Read first time January 22, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Municipal Equalization Fund; to amend  
2 section 13-2814, Reissue Revised Statutes of Nebraska,  
3 and sections 77-27,139.03 and 77-27,144, Revised Statutes  
4 Cumulative Supplement, 2012; to change funding; to  
5 eliminate collection fees; to provide an operative date;  
6 and to repeal the original sections.

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

1                   Section 1. Section 13-2814, Reissue Revised Statutes of  
2 Nebraska, 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 77-27,139.03, Revised Statutes Cumulative  
20 Supplement, 2012, is amended to read:

21           77-27,139.03 (1) State aid provided to municipalities  
22 pursuant to sections 77-27,139.01 to 77-27,139.04 shall be calculated  
23 by determining the average property tax levy for operational purposes  
24 other than for principal and interest payments on the indebtedness of  
25 all incorporated municipalities. The Auditor of Public Accounts shall

1 provide to the Department of Revenue a list of the bond and nonbond  
2 tax request amounts from the most recent budgets filed by  
3 incorporated municipalities. The information shall be used to  
4 calculate the bond and nonbond tax levies for aid purposes under this  
5 section. The auditor shall provide the information to the department  
6 by February 1 each year.

7           (2) Each municipality shall receive state aid from the  
8 Municipal Equalization Fund equal to (a) the product of the average  
9 per capita property tax of the appropriate population group  
10 multiplied by the current population of the municipality minus (b)  
11 the product of the average property tax levy multiplied by the  
12 certified valuation within the incorporated municipality, except that  
13 a municipality shall not receive any aid under this section if the  
14 calculation results in a negative number.

15           (3) If a municipal tax levy for operational purposes was  
16 less than the average property tax levy in the immediately preceding  
17 fiscal year, the state aid provided to such municipality shall be  
18 reduced by twenty percent for each one-cent increment the levy was  
19 below the average property tax levy but the reduction shall not  
20 exceed eighty percent.

21           (4) If the amount of money in the Municipal Equalization  
22 Fund is less than the total amount of state aid for all  
23 municipalities as required by the allocation formula in subsection  
24 (2) of this section, the money in the fund shall be supplemented with  
25 General Funds limited to an amount that is the equivalent of three

1 percent of the sales and use taxes collected by the Tax Commissioner  
2 for sales and use taxes imposed by a municipal county pursuant to  
3 section 13-2813 and an incorporated municipality pursuant to section  
4 77-27,142. If, after General Fund supplementation, the amount in the  
5 Municipal Equalization Fund remains to be less than the total amount  
6 of state aid required, the money in the fund shall be allocated on a  
7 prorated basis to such municipalities. If the amount of money in the  
8 fund is more than the total amount of state aid for municipalities as  
9 required by the allocation formula, the excess money in the fund  
10 shall be credited to the General Fund.

11           Sec. 3. Section 77-27,144, Revised Statutes Cumulative  
12 Supplement, 2012, is amended to read:

13           77-27,144 (1) The Tax Commissioner shall collect the tax  
14 imposed by any incorporated municipality concurrently with collection  
15 of a state tax in the same manner as the state tax is collected. The  
16 Tax Commissioner shall remit monthly the proceeds of the tax to the  
17 incorporated municipalities levying the tax, after deducting the  
18 amount of refunds made, ~~and three percent of the remainder to be~~  
19 ~~credited to the Municipal Equalization Fund.~~

20           (2) Deductions for a refund made pursuant to section  
21 77-4105 or 77-5725 shall be delayed for one year after the refund has  
22 been made to the taxpayer. The Department of Revenue shall notify the  
23 municipality liable for the refund of the pending refund, the amount  
24 of the refund, and the month in which the deduction will be made or  
25 begin, except that if the amount of a refund claimed under section

1 77-4105 or 77-5725 exceeds twenty-five percent of the municipality's  
2 total sales and use tax receipts, net of any refunds or sales tax  
3 collection fees, for the municipality's prior fiscal year, the  
4 department shall deduct the refund over the period of one year in  
5 equal monthly amounts beginning after the one-year notification  
6 period required by this subsection. This subsection applies to  
7 refunds owed by cities of the first class, cities of the second  
8 class, and villages. This subsection applies beginning January 1,  
9 2014.

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

22 Sec. 4. This act becomes operative on October 1, 2013.

23 Sec. 5. Original section 13-2814, Reissue Revised  
24 Statutes of Nebraska, and sections 77-27,139.03 and 77-27,144,  
25 Revised Statutes Cumulative Supplement, 2012, are repealed.