

LEGISLATIVE BILL 454

Approved by the Governor February 19, 1982

Introduced by Carsten, 2

AN ACT to amend section 77-2715.02, Reissue Revised Statutes of Nebraska, 1943, and section 77-2715.01, Revised Statutes Supplement, 1980, relating to revenue and taxation; to change the adjustment increments for sales and income tax rates; to require the reporting of certain information by the Tax Commissioner; to provide operative dates; to repeal the original sections, and also section 77-386, Revised Statutes Supplement, 1980; and to declare an emergency.

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

Section 1. That section 77-2715.01, Revised Statutes Supplement, 1980, be amended to read as follows:

77-2715.01. (1) On or before November 15 of each year, the State Board of Equalization and Assessment shall set the rate of the income tax imposed by section 77-2715 for the taxable year beginning in the subsequent calendar year, and the rate of the sales tax imposed by subsection (1) of section 77-2703 which will be effective from January 1 through December 31 of the succeeding year. For the taxable year commencing January 1, 1975, the individual income tax rate shall not exceed twelve per cent.

Recognizing that an adequate cash flow is necessary to maintain the orderly implementation of various legislative acts, it is mandatory that the funding of those acts which have a fiscal impact beyond a current appropriations year be considered when setting the sales and income tax rates. Accordingly, the purpose of this subsection is to provide that the State Board of Equalization and Assessment shall set rates based on appropriations and the express obligations of the Legislature for the two succeeding calendar years following the rate-setting date. Such action will provide an adequate cash flow, the orderly implementation of the funding of acts as intended by the Legislature, and eliminate drastic fluctuations in the state sales and income tax rates.

(a) In fixing the rates, the State Board of Equalization and Assessment shall first determine the status of all appropriations and express obligations for the next two succeeding calendar years following the

rate-setting date which must be financed from the receipts from the sales and use taxes, the individual and corporation income and franchise taxes and other miscellaneous receipts to the General Fund, from a certified statement of all appropriations and express obligations for the next two succeeding calendar years following the rate-setting date made by the most recent regular session of the Legislature, which statement the Director of Administrative Services shall prepare and furnish prior to the convening of such board.

(b) If the Legislature should meet in a special session during any year, the board shall add to the appropriations and express obligations as certified pursuant to subdivision (a) of this subsection, the appropriation for the legislative session, all miscellaneous claims, deficiency bills, and all emergency appropriations and express obligations.

(c) The board shall then determine the balance of the General Fund at the beginning of the period under consideration and the estimated receipts to the General Fund from all sources other than the sales, use, income, and franchise taxes for this period.

(d) The board shall then set the rates of the sales tax and income tax so that the estimated funds available pursuant to subdivision (c) of this subsection plus estimated receipts from the sales, use, income, and franchise taxes will be not less than three per cent nor more than seven per cent in excess of the appropriations and express obligations for the next two succeeding calendar years following the rate-setting date as determined pursuant to subdivisions (a) and (b) of this subsection, except that, in setting the rates for calendar year 1976, such excess shall be not less than two nor more than three per cent. The purpose of this subdivision is to insure that there shall be maintained in the state treasury an adequate General Fund balance, considering cash flow, to meet the appropriations and express obligations as certified as provided in subdivision (a) of this subsection.

(e) The rates of the sales and income taxes shall be fixed so that the total sales and use taxes levied will as nearly as possible equal the total individual income tax levied for the calendar year for which the rates so fixed will be effective. The board shall set the rates in such a manner that total sales and use tax revenue should not exceed total individual income tax revenue in any particular year.

(f) For purposes of this subsection, total sales and use taxes levied shall mean the total state sales and use tax liability of all taxpayers for the calendar year minus total food sales tax credits attributable to the same period. Total income and franchise taxes levied shall mean the total state income and franchise tax liability of all taxpayers for the calendar year, before deduction of food sales tax credits.

(g) The sales tax rate so fixed by the board shall be an increment of one-half one-fourth of one per cent, and the income tax rate so fixed shall be an increment of one half of one per cent.

(h) For purposes of this section, express obligation shall mean an obligation which has fiscal impact identifiable by a sum certain or by an established percentage or other determinative factor or factors.

(2) The board shall meet within fifteen days after the adjournment of each regular session of the Legislature, within thirty days after each special session of the Legislature, and also within thirty days after receiving a report from the Tax Commissioner that there have been significant changes in the provisions of the Internal Revenue Code of 1954 and amendments thereto, other provisions of the laws of the United States relating to federal income taxes, or the rules and regulations issued under such laws, and shall determine whether the rates for sales tax and income tax must be changed. In making such determination the board shall recalculate the requirements pursuant to the formula set forth in subsection (1) of this section, taking into consideration the appropriations and express obligations for such special session, all miscellaneous claims, deficiency bills, and all emergency appropriations.

In the event the board determines the rates must be changed as a result of such regular or special session or as a result of a change in the provisions of the Internal Revenue Code of 1954 and amendments thereto, other provisions of the laws of the United States relating to federal income taxes, and the rules and regulations issued under such laws, such sales tax rate shall be made effective at the beginning of any calendar month within the current calendar year and such income tax rate shall be effective for the current taxable year.

Sec. 2. That section 77-2715.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2715.02. (1) The Tax Commissioner shall include in the revenue estimate provided to the State Board of Equalization and Assessment monthly estimates of the anticipated receipts for each source of General Fund revenue which provides in excess of five million dollars annually to such fund.

(2) On December 15 of each year, on the seventieth legislative day in odd-numbered years, and on the fortieth legislative day in even-numbered years, the Tax Commissioner shall provide to the chairpersons of the Appropriations and Revenue Committees of the Legislature a report reflecting the projections of General Fund gross receipts, net receipts, and beginning unobligated balance for the following fiscal year based upon tax rates in effect at the time such projections are made.

~~(2)~~ (3) On or before the fifteenth day of each month the Tax Commissioner shall provide to each member of the State Board of Equalization and Assessment and the chairpersons of the Appropriations and Revenue Committees of the Legislature a report reflecting the General Fund deposits actual receipts for the preceding calendar month and the limitations of information contained in such report. Such report shall be made available to any individual upon request.

~~(3)~~ (4) ~~After January 1, 1976, if~~ If the accumulative total deposits actual receipts to the General Fund for the year shall at any time be less than ninety per cent or greater than one hundred ten per cent of the projected deposits receipts for such period, the Governor may call a meeting of the State Board of Equalization and Assessment to determine whether the rates for the sales tax and income tax shall be changed. If such a change is required, the board shall establish the new rates pursuant to section 77-2715.01.

Sec. 3. Sections 2 to 4 of this act shall become operative on their effective date. Sections 1 and 5 of this act shall become operative three calendar months after the adjournment of the legislative session.

Sec. 4. That original section 77-2715.02, Reissue Revised Statutes of Nebraska, 1943, and also section 77-386, Revised Statutes Supplement, 1980, are repealed.

Sec. 5. That original section 77-2715.01, Revised Statutes Supplement, 1980, is repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after

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its passage and approval, according to law.