

LEGISLATIVE BILL 327

Approved by the Governor March 6, 1978

Introduced by Newell, 13

AN ACT to amend section 77-2715.01, Reissue Revised Statutes of Nebraska, 1943, relating to sales and income tax; to provide that rates be set so that total sales and use tax revenue should not exceed total individual income tax revenue in any year; and to repeal the original section.

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

Section 1. That section 77-2715.01, Reissue Revised Statutes of Nebraska, 1943, 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 of one per cent, and the income tax rate so fixed shall be an increment 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 original section 77-2715.01, Reissue Revised Statutes of Nebraska, 1943, is repealed.