

LEGISLATIVE BILL 490

Approved by the Governor June 1, 1995

Introduced by Kristensen, 37

AN ACT relating to revenue and taxation; to amend sections 23-1611, 46-133, 77-202.02, 77-202.04, 77-202.05, 77-202.06, 77-202.07, 77-202.08, 77-202.25, 77-367, 77-369, 77-371, 77-376, 77-415, 77-416, 77-418, 77-419, 77-420, 77-421, 77-425, 77-428, 77-508.01, 77-601, 77-602, 77-605, 77-606, 77-607, 77-608, 77-609, 77-611, 77-612, 77-616, 77-621, 77-623, 77-801, 77-802, 77-803, 77-804, 77-1216, 77-1245, 77-1247, 77-1249.01, 77-1250, 77-1250.02, 77-1250.03, 77-1250.04, 77-1250.05, 77-1301.02, 77-1301.03, 77-1301.04, 77-1301.06, 77-1301.08, 77-1301.14, 77-1301.15, 77-1306.01, 77-1314, 77-1325, 77-1329, 77-1330, 77-1331, 77-1332, 77-1334, 77-1336, 77-1339, 77-1340, 77-1346, 77-1371, 77-1507, 77-1510.01, 77-1511, 77-1513, 77-1515, 77-1606, 77-1613.02, 77-1615.01, 77-1623, 77-1704.01, 77-1705, 77-1738, 77-1749, 77-1750, 77-1760, 77-1763, 77-1766, 77-3519, 77-3902, 77-3903, 77-3907, 77-3908, 79-3809, 79-3819, 79-3823, 81-15,102.01, 81-15,113.01, and 84-920, Reissue Revised Statutes of Nebraska, sections 13-504, 18-2713, 76-214, 77-120, 77-202.01, 77-202.03, 77-366, 77-375, 77-399, 77-3,113, 77-3,114, 77-507.01, 77-508, 77-509, 77-603, 77-604, 77-615, 77-680, 77-681, 77-682, 77-683, 77-684, 77-685, 77-686, 77-687, 77-689, 77-690, 77-691, 77-693, 77-1229, 77-1233.04, 77-1239, 77-1239.01, 77-1239.02, 77-1240.01, 77-1240.04, 77-1248, 77-1249, 77-1301.01, 77-1301.07, 77-1301-12, 77-1301.13, 77-1311, 77-1327, 77-1333, 77-1342, 77-1360.01, 77-1361, 77-1362, 77-1363, 77-1364, 77-1367, 77-1376, 77-1377, 77-1381, 77-1384, 77-1502, 77-1503.01, 77-1504, 77-1510, 77-1514, 77-1613.01, 77-1735, 77-1736.06, 77-1775, 77-1775.01, 77-3438, 77-3904, 77-3905, and 77-3906, Revised Statutes Supplement, 1994, section 77-1716, Reissue Revised Statutes of Nebraska, as amended by section 31, Legislative Bill 452, Ninety-fourth Legislature, First Session, 1995, section 77-1601, Revised Statutes Supplement, 1994, as amended by section 1, Legislative Bill 167, Ninety-fourth Legislature, First Session, 1995, and section 16, Legislative Bill 452, Ninety-fourth Legislature, First Session, 1995; to adopt the Tax Equalization and Review Commission Act; to create the position of Property Tax Administrator; to transfer certain powers and duties of the Tax Commissioner and Department of Revenue to the Property Tax Administrator; to change and eliminate provisions relating to assessment, valuation, and taxation of property; to harmonize provisions; to provide an operative date; to provide severability; to repeal the original sections; and to outright repeal sections 77-1373, 77-1747, 77-1751, 77-1752, 77-1753, 77-1754, 77-1755, 77-1755.01, 77-1756, 77-1757, 77-1758, 77-1768, 77-1769, and 77-1770, Reissue Revised Statutes of Nebraska, and sections 77-1372 and 77-1506.02, Revised Statutes Supplement, 1994.

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

Section 1. Sections 1 to 21 of this act shall be known and may be cited as the Tax Equalization and Review Commission Act.

Sec. 2. For purposes of the Tax Equalization and Review Commission Act:

(1) Commission means the Tax Equalization and Review Commission; (2) Commissioner means a member of the commission: an

(3) Special master means a person appointed by the commission pursuant to section ion 9 of this act.

Sec. 3. The Tax Equalization and Review Commission is created. The Tax Commissioner has no supervision, authority, or control over the actions or decisions of the commission relating to its duties prescribed by law. The commission shall have three commissioners. one from each congressional district, who are appointed by the Governor with the approval of a majority of the members of the Legislature. One of the commissioners shall be designated by the Governor as chairperson.

The term of the commissioner from district 1 expires two years after the first appointment under this section. the term of the commissioner from district 2 expires four years after the first appointment under this section. and the term of the commissioner from district 3 expires six years after the

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Sec. 184. Section 77-3908, Reissue Revised Statutes of Nebraska, is amended to read:

77-3908. (1) No injunction or writ of mandamus or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state to enjoin the collection of any tax, fee, or any amount of tax required to be collected under any tax program administered by the Tax Commissioner or Property Tax Administrator.

(2) The methods of enforcement and collection provided in the Uniform State Tax Lien Registration and Enforcement Act, including distraint and sale, shall be fully independent so that pursuit of any one method shall not be conditioned upon pursuit of any other, nor shall pursuit of any one method in any way affect or limit the right of the Tax Commissioner or Property Tax Administrator to subsequently pursue any of the other methods of enforcement or collection.

Sec. 185. Section 79-3809, Reissue Revised Statutes of Nebraska, is amended to read:

79-3809. (1) On or before July 1 for 1994 and on or before June 1 for each year thereafter, the ~~Department of Revenue~~ Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation of each district for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (2) of this section. Establishment of the adjusted valuation shall be based on assessment practices established by rule and regulation adopted and promulgated by the ~~Department of Revenue~~ Property Tax administrator. The assessment practices may include, but not be limited to, the appraisal techniques listed in section 77-112.

(2) For purposes of this section, state aid value shall mean:

(a) For real property other than agricultural land, one hundred percent of market value;

(b) For agricultural land, eighty percent of market value as provided in sections 77-1359 to 77-1367 and 77-1371;

(c) For personal property other than motor vehicles, the net book value as defined in section 77-120; and

(d) For motor vehicles, the value established pursuant to section 77-1239.

(3) For 1995 and each year thereafter, prior to July 1 any school district may file with the ~~Department of Revenue~~ Property Tax Administrator written objections to the adjusted valuations prepared by the ~~department~~ Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The ~~Tax Commissioner~~ Property Tax Administrator shall fix a time for a hearing, ~~to be held prior to August 1~~. Either party shall be permitted to introduce any evidence in reference thereto. Prior to ~~September~~ December 1, the ~~Tax Commissioner~~ Property Tax Administrator shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the ~~Tax Commissioner~~ Property Tax Administrator shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the ~~Tax Commissioner~~ Property Tax Administrator may be appealed, ~~and the appeal shall be in accordance with the Administrative Procedure Act to the Tax Equalization and Review Commission~~.

(4) For 1994, prior to August 1 any school district may file with the Department of Revenue written objections to the adjusted valuations prepared by the department, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Tax Commissioner shall fix a time for a hearing to be held prior to August 15. Either party shall be permitted to introduce any evidence in reference thereto. Prior to September 1, the Tax Commissioner shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Tax Commissioner shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Tax Commissioner may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(5) The ~~Tax Commissioner~~ Property Tax Administrator shall, on the date the adjusted valuations are certified to the State Department of Education under subsection (1) of this section, cause to be published notice of such adjusted valuations in a newspaper published or of general circulation

in each county in Nebraska.

(6) No injunction shall be granted restraining the distribution of state aid based upon the adjusted valuations pursuant to this section.

Sec. 186. Section 79-3819, Reissue Revised Statutes of Nebraska, is amended to read:

79-3819. (1) A district may exceed its applicable allowable growth rate by a specific dollar amount in the situations described in this section.

(2) A district demonstrates to the satisfaction of the state board that a new program is required by state or federal law or an existing program mandated by state or federal law has been expanded as a result of changes in state or federal law. For purposes of this subsection, a final order of a court, the State Board of Equalization and Assessment, ~~or the Tax Commissioner,~~ the Tax Equalization and Review Commission, or the Property Tax Administrator from which no appeal is taken which requires reimbursement by a district of property taxes to a taxpayer shall be considered a new program required by state or federal law but shall not be included as part of the general fund budget of expenditures for purposes of section 79-3814.

(3) The district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The state board shall approve, deny, or modify the projected increases.

Average daily membership of district	Projected increase of formula student by percentage
0 - 50	10
50.01 - 250	5
250.01 - 1,000	3
1,000.01 and over	1

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1 of each year, the department shall make needed revisions in the applicable allowable growth rate of districts which have been allowed additional growth pursuant to this subsection to reflect the actual formula students of such district and shall certify such revisions to each district.

(4) Construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a district to exceed its applicable allowable growth percentage by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall, if needed, modify the district's applicable allowable growth rate for the ensuing school year.

(5) A district demonstrates to the satisfaction of the state board that as a result of an order entered into by the Commission of Industrial Relations pursuant to section 48-818 establishing rates of pay, benefits, and other terms and conditions of employment, the district will exceed its applicable allowable growth rate. The department shall compute the amount by which the increase in employee costs exceeds the district's applicable allowable growth- rate and shall allow the district to increase its general fund budget of expenditures by such amount.

(6) A district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of a contested, but settled, contract dispute, claim, or breach or uninsured risk or as a result of any final judgment of any court of competent jurisdiction, requiring or obligating the district to pay such judgment. The department shall compute the amount by which the increased cost of the settlement or judgment exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

Sec. 187. Section 79-3823, Reissue Revised Statutes of Nebraska, is amended to read:

79-3823. There is hereby created the School Finance Review

Committee, which committee shall be composed of representatives of the State Department of Education, the ~~Department of Revenue~~ Property Tax Administrator, the Legislative Council, and each class of district, an expert in school finance, and a member of the general public. Except for the representative of the Legislative Council, who shall be selected by the Executive Board of the Legislative Council, and the representative of the State Department of Education, who shall be appointed by the State Board of Education, the committee members shall be appointed by the Governor. Committee members shall serve staggered three-year terms as the Governor shall designate, and committee members may be reappointed for one additional term. The committee shall monitor the operation of the school finance provisions of the Tax Equity and Educational Opportunities Support Act and suggest needed revisions in the act. In particular, the committee shall review the implementation and operation of the average daily membership tiers, budget growth limitations, the need for a continuing hold-harmless provision for state aid, and expenditures of districts pursuant to the act. The committee shall study and make specific recommendations for harmonizing the provisions of the act with the provisions of Laws 1990, LB 259, and the provisions of Chapter 79, article 34.

The committee shall annually, on or before March 1, make a report to the Governor, Legislature, and State Board of Education on the progress of the act in effectuating property tax relief, broadening the tax base for the support of the public school system, equalization of the tax burden for the support of the public school system, equalization of educational opportunities for students, and the effects of budget limitations on district spending patterns.

Sec. 188. Section .81-15,102.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,102.01. (1) Any owner of real property that is within a three-mile radius of the facility on the date a license for such facility is granted who believes that his or her property has declined in value as a result of construction of the facility or his or her heirs or assigns may apply for compensation as provided in this section. Any application for compensation shall be filed within five years of the date the facility first begins, accepting low-level 'radioactive waste. Upon application by a real property owner, the county board of the county in which the facility is located shall hold a hearing to determine whether a loss of real property value has occurred. In reaching a decision, the county board shall consider the value of such property on the date a license is granted to the developer, using appraisals, valuations made by the county assessor of the county, data developed by the ~~Department of Revenue~~ Property Tax Administrator, and any other relevant data, including appraisals which the county board may order. If the real property owner establishes by a preponderance of the evidence that his or her property has suffered loss which has not previously been compensated due to the construction of the facility, the developer shall provide compensation to the real property owner for the amount of the loss. Compensation shall be provided by the developer from fees assessed upon generators of low-level radioactive waste at the time such waste is delivered to the facility. Any real property owner aggrieved by a final decision of the county board shall be entitled to an appeal in the same manner as appeals are taken pursuant to section 23-135.

(2) As used in this section, real property owner shall mean the owner of record in the office of the county register of deeds on the date a license is granted to the developer as provided in section 81-15,101 or his or her heirs or assigns.

Sec. 189. Section 81-15,113.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,113.01. (1) There is hereby created the Community Improvements Cash Fund which shall be under the direction of the department. The Central Interstate Low-Level Radioactive Waste Compact Commission shall annually through 1994 remit to the department the funds received from the states belonging to the Central Interstate Low-Level Radioactive Waste Compact as compensation paid to the host state. When the facility begins operation, the developer shall levy, collect, and remit to the department a surcharge on the rates charged to the users of the facility which is sufficient to raise two million dollars per year together with any adjustments made by the department pursuant to this section. The department shall remit such surcharge to the State Treasurer who shall credit it to the Community Improvements Cash Fund. On October 1, 1990, and each October 1 thereafter, the department* shall adjust the amount to be remitted by the developer by an amount equal to the percentage increase in the Consumer Price Index or, if publication of the Consumer Price Index is discontinued, a comparable index

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