

LEGISLATIVE BILL 180

Approved by the Governor April 23, 2021

Introduced by Linehan, 39.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-4603, Reissue Revised Statutes of Nebraska, and section 77-4602, Revised Statutes Cumulative Supplement, 2020; to change provisions relating to certain public statements of the Tax Commissioner and certain estimates of General Fund net receipts; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 77-4602, Revised Statutes Cumulative Supplement, 2020, is amended to read:

77-4602 (1) Within fifteen days after the end of each month, the Tax Commissioner shall provide a public statement of actual General Fund net receipts, ~~and a comparison of such actual net receipts to the monthly estimated net receipts from the most recent forecast provided by the Nebraska Economic Forecasting Advisory Board pursuant to section 77-27,158, and a comparison of such actual net receipts to the monthly actual net receipts for the same month of the previous fiscal year estimate certified pursuant to section 77-4601.~~

(2) Within fifteen days after the end of each fiscal year, the public statement shall also include (a) a summary of actual General Fund net receipts and estimated General Fund net receipts for the fiscal year as certified pursuant to sections 77-4601 and 77-4603 and (b) a comparison of the actual General Fund net receipts for the fiscal year to the actual General Fund net receipts for the previous fiscal year.

(3)(a) Within fifteen days after the end of fiscal year 2020-21 and each fiscal year thereafter through fiscal year 2022-23, the Tax Commissioner shall determine the balance of the Cash Reserve Fund.

(b) If the balance of the Cash Reserve Fund is less than five hundred million dollars:

(i) The Tax Commissioner shall determine:

(A) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year as certified pursuant to sections 77-4601 and 77-4603; and

(B) Actual General Fund net receipts for the most recently completed fiscal year minus one hundred three and one-half percent of actual General Fund net receipts for the prior fiscal year.

(ii) If the amounts calculated under subdivisions (3)(b)(i)(A) and (3)(b)(i)(B) of this section are both positive numbers, the Tax Commissioner shall certify (A) the amount determined under subdivision (3)(b)(i)(A) of this section and (B) fifty percent of the amount determined under subdivision (3)(b)(i)(B) of this section to the State Treasurer. The State Treasurer shall transfer the difference between the two certified amounts to the Cash Reserve Fund.

(iii) If the amount calculated under subdivision (3)(b)(i)(A) of this section is a positive number but the amount calculated under subdivision (3)(b)(i)(B) of this section is a negative number, the Tax Commissioner shall certify the amount determined under subdivision (3)(b)(i)(A) of this section to the State Treasurer and the State Treasurer shall transfer such certified amount to the Cash Reserve Fund.

(c) If the balance of the Cash Reserve Fund is five hundred million dollars or more:

(i) The Tax Commissioner shall determine:

(A) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year as certified pursuant to sections 77-4601 and 77-4603; and

(B) Actual General Fund net receipts for the most recently completed fiscal year minus one hundred three and one-half percent of actual General Fund net receipts for the prior fiscal year.

(ii) If the amounts calculated under subdivisions (3)(c)(i)(A) and (3)(c)(i)(B) of this section are both positive numbers, the Tax Commissioner shall certify (A) the amount determined under subdivision (3)(c)(i)(A) of this section and (B) the amount determined under subdivision (3)(c)(i)(B) of this section to the State Treasurer. The State Treasurer shall transfer the difference between the two certified amounts to the Cash Reserve Fund.

(iii) If the amount calculated under subdivision (3)(c)(i)(A) of this section is a positive number but the amount calculated under subdivision (3)(c)(i)(B) of this section is a negative number, the Tax Commissioner shall certify the amount determined under subdivision (3)(c)(i)(A) of this section to the State Treasurer and the State Treasurer shall transfer such certified amount to the Cash Reserve Fund.

(4)(a) Within fifteen days after the end of fiscal year 2023-24 and each fiscal year thereafter, the Tax Commissioner shall determine the following:

(i) Actual General Fund net receipts for the most recently completed fiscal year minus estimated General Fund net receipts for such fiscal year as certified pursuant to sections 77-4601 and 77-4603; and

(ii) Fifty percent of the product of actual General Fund net receipts for the most recently completed fiscal year times the difference between the annual percentage increase in the actual General Fund net receipts for the most recently completed fiscal year and the average annual percentage increase in the actual General Fund net receipts over the twenty previous fiscal years, excluding the year in which the annual percentage change in actual General Fund net receipts is the lowest.

(b) If the number determined under subdivision (4)(a)(i) of this section is a positive number, the Tax Commissioner shall immediately certify the greater of the two numbers determined under subdivision (4)(a) of this section to the director. The State Treasurer shall transfer the certified amount from the General Fund to the Cash Reserve Fund upon certification by the director of such amount. The transfer shall be made according to the following schedule:

(i) An amount equal to the amount determined under subdivision (4)(a)(i) of this section shall be transferred immediately; and

(ii) The remainder, if any, shall be transferred by the end of the subsequent fiscal year.

(c) If the transfer required under subdivision (4)(b) of this section causes the balance in the Cash Reserve Fund to exceed sixteen percent of the total budgeted General Fund expenditures for the current fiscal year, such transfer shall be reduced so that the balance of the Cash Reserve Fund does not exceed such amount.

(d) Nothing in this subsection prohibits the balance in the Cash Reserve Fund from exceeding sixteen percent of the total budgeted General Fund expenditures each fiscal year if the Legislature determines it necessary to prepare for and respond to budgetary requirements which may include, but are not limited to, capital construction projects and responses to emergencies.

Sec. 2. Section 77-4603, Reissue Revised Statutes of Nebraska, is amended to read:

77-4603 (1) If an estimate of General Fund net receipts is changed in a regular or extraordinary meeting of the Nebraska Economic Forecasting Advisory Board and such change results in a special session of the Legislature to revise current fiscal year General Fund appropriations, the Tax Commissioner and the Legislative Fiscal Analyst shall certify the monthly receipt estimates, taking into consideration the most recent estimate of General Fund net receipts made by the Nebraska Economic Forecasting Advisory Board plus legislation enacted which has an impact on receipts that was not included in the forecast. The new monthly certification shall be made by the fifteenth day of the month following the adjournment of the special session of the Legislature.

(2) If an estimate of General Fund net receipts is reduced in a regular or extraordinary meeting of the Nebraska Economic Forecasting Advisory Board, the Tax Commissioner and the Legislative Fiscal Analyst shall recertify the monthly receipt estimates, taking into consideration the most recent estimate of General Fund net receipts made by the Nebraska Economic Forecasting Advisory Board plus legislation enacted which has an impact on receipts that was not included in the forecast. The new monthly certification shall be made by the fifteenth day of the month following the meeting of the Nebraska Economic Forecasting Advisory Board.

(3) The new certified annual and monthly receipt estimates shall be used for the public statements required under subsection (2) of section 77-4602.

Sec. 3. Original section 77-4603, Reissue Revised Statutes of Nebraska, and section 77-4602, Revised Statutes Cumulative Supplement, 2020, are repealed.