

LR 332 and LR 344
School Funding and Property Taxes in Nebraska
Joint Report of the Education and Revenue Committees

December 15, 2015

Joint Committee Members

Senator Mike Gloor, Revenue Committee Chair
Senator Kate Sullivan, Education Committee Chair and Revenue Committee
Senator Heath Mello, Appropriations Committee Chair
Senator Galen Hadley, Speaker of the Legislature
Senator Paul Schumacher, Revenue Committee Vice-Chair
Senator Lydia Brasch, Revenue Committee
Senator Al Davis, Revenue Committee
Senator Burke Harr, Revenue Committee
Senator Jim Scheer, Revenue Committee
Senator Jim Smith, Revenue Committee
Senator Rick Kolowski, Education Committee Vice-Chair
Senator Roy Baker, Education Committee
Senator Tanya Cook, Education Committee
Senator Bob Krist, Education Committee
Senator Mike Groene, Education Committee
Senator Adam Morfeld, Education Committee
Senator Patty Pansing Brooks, Education Committee
Senator David Schnoor, Education Committee

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Tammy Barry, Education Committee Legal Counsel
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Table of Contents

1. Report of the Joint Committee Activities
 - a. Introduction
 - b. Interim Study
 - c. Interim Hearing
 - d. Conclusion of Interim Study
2. Comments of the Committee Chairs
3. Appendices
 - a. Legislative Resolution 332
 - b. Legislative Resolution 344
 - c. Timeline of Joint Education and Revenue Committee Meetings and Hearings
 - d. List of Background Documents Provided to Joint Committee Members
 - e. Timeline of Major Tax Changes 2012-2015
 - f. Options List Generated by the Joint Committee for Public Comment
 - g. Public Hearing Agenda
 - h. Public Hearing Testimony

Introduction

The Education Committee introduced Legislative Resolution 344 and Senator Gloor, Revenue Committee Chair, introduced Legislative Resolution 332 near the end of the 2015 Legislative Session.¹ The resolutions were referenced to each of the committees, respectively. Both resolutions sought to continue the work of the Tax Modernization Committee (2013), a special legislative committee which conducted a comprehensive review of Nebraska's tax system.² The purpose of the resolutions was to further examine the tax revenues for public schools in terms of fairness and equity, efficiency and effectiveness, stability and competitiveness.

The primary property tax recommendation from the Tax Modernization report was to "Increase the state aid commitment to schools to offset property tax use and reduce property taxes as a share of total state and local taxes."³ Given the commonality in purpose between the two resolutions, the committee chairs determined that a joint interim study and report were appropriate. In addition, the Speaker of the Legislature, Senator Hadley and the chair of the Appropriations Committee, Senator Mello, participated as members of the Joint Committee.

The Tax Modernization Committee had found, among other things, that "Nebraska makes greater use of the property tax to fund public services than other states in the nation or region. Achieving the same average balance of sources in the region or nation would require a \$200 to \$300 million dollar shift and reduction in use of property tax."⁴ These findings and recommendations notwithstanding, the Joint Committee agreed that any and all suggestions regarding funding of public schools would be considered.

Interim Study

In preparation for joint meetings which commenced in late summer, members of the Joint Committee were provided numerous background documents, reports and other research which had already been compiled. The property tax section of the Tax Modernization Committee report was one key document, as were the Historical and Current Nebraska K-12 School Data Report and School District Resources Simplified. (Please see the Appendix of this report for a complete list of background documents with links.)

The first three meetings were facilitated by The Mediation Center of Lincoln. The purpose of utilizing facilitators was to allow the committee chairs to interact without the

¹ See Appendix.

² For a complete copy of the Tax Modernization Committee report please go to http://www.nebraskalegislature.gov/pdf/reports/committee/select_special/taxmod/lr155_taxmod2013.pdf.

³ Id at p. 86.

⁴ Id at p. 33.

added responsibilities that are typical in such situations. The mediators helped establish basic guidelines for discussion, captured ideas and concepts (without attribution to a particular senator), assisted in the development of options and provided feedback throughout the meetings to the committee chairs.

The meetings were held in Executive Session, meaning they were not open to the general public but members of the press were allowed to attend and report on the Committee's deliberations. The purpose of conducting the meetings in this manner was to further a more open debate amongst the Committee members.

The Joint Committee held its first meeting August 27th and 28th, 2015, in Lincoln. Staff from both committees presented general overviews at the first meeting addressing the nature of Nebraska's property tax and school finance systems. A guest speaker was also invited to provide a national perspective on property taxes and funding public education. Dr. Andrew Reschovsky, a Fellow with the Lincoln Institute of Land Policy in Cambridge, Massachusetts and Professor Emeritus, University of Wisconsin-Madison presented the paper Funding K-12 Public Education in Nebraska.⁵ His presentation highlighted Nebraska property taxes compared to national data as well as comparisons of public education funding.

In general, Dr. Reschovsky found that Nebraska does tend to rely on local property taxes to fund public education more than most states and that property taxes on agricultural land in particular had dramatically increased over the last decade in comparison to residential, commercial and industrial property. As a result, Nebraska's expenditure of state funds for public education is one of the lowest in the country. Dr. Reschovsky offered ideas for shifting some of the burden from property taxes to state aid which is funded primarily by income and sales taxes, but he also cautioned against relying too heavily on state aid. He reminded the committee members that striving for balance between local property taxes and state aid continues to be the goal for funding public education.

The Joint Committee continued its meetings on September 23rd and 24th, and again on October 15th. Discussion of various options was had at the meetings, in preparation for a public hearing. A final meeting was held on November 30 and is discussed later in this report.

Interim Hearing

A public hearing was held in Lincoln, Nebraska on Thursday, November 12, 2015, in Room 1113 of the State Capitol Building, from 9:00 a.m. until approximately 6:00 p.m. The options generated by the Committee were made a part of the Notice of Hearing,

⁵ To see the full report please go to <http://news.legislature.ne.gov/rev/files/2015/07/Funding-K-12-Public-Education-in-Nebraska-Dr.-Andrew-Reschovsky.pdf>.

allowing testifiers to comment on one or all of the options. The hearing was also made available via live stream by NET television.

The options generated by members of the Joint Committee for the public hearing were:

- Increasing the Property Tax Credit Fund
- Assessment practices for agricultural land
- Decreasing the valuation for agricultural land for purposes of the state aid formula
- Direct aid for all school districts
- Decreasing school district levy limits
- Modifying school district budget limits
- Eliminating reductions in state aid to school districts that do not meet qualifying levies
- Reallocating current state spending
- New tax sources to allow a shift away from property taxes
- Increasing current tax sources to allow a shift away from property taxes

The majority of the morning session was dedicated to a panel of experts whom the committee invited to testify. The panel included:

- Dr. Bruce Johnson, Professor Emeritus, University of Nebraska-Lincoln;
- Ms. Catherine Lang, former Nebraska Property Tax Administrator and former Director of the Departments of Economic Development and Labor; and
- Bob Wickersham, former state senator and former Chair of the Tax Equalization and Review Commission.

The remainder of the morning and early afternoon session included testimony from 12 advocacy groups who appeared at the request of the Joint Committee. The general public was invited to testify after the requested testifiers. (Please see the Appendices for a complete list of public testimony.)

Conclusion of the Interim Study

Senator Sullivan presented an overview of the study and the hearing during the Legislative Council Retreat on November 20, 2015. The presentation provided both an update on the work of the Committee for all senators and a forum for discussion of the options generated by the Committee.

As previously noted, the final meeting was held on November 30, 2015. A revised options list was provided to Committee members for discussion at that meeting. The options listed below were divided by topic for discussion purposes only. Any introduced bills would be subject to appropriate referencing. The revised options list is as follows:

Revenue

1. Limit Land Value Increases
 - a. One-year freeze
 - b. Annual Cap
 - c. Ag Only
2. Review Assessment Practices for Agricultural Land
3. Circuit Breaker for Agricultural Land
4. Increase the Property Tax Credit
5. Property Tax Credit for Agricultural Land
6. Improve Dialogue Between County Boards and School Boards
7. More Detailed Explanation on Property Tax Statements
8. Authorize Monthly or Quarterly Installment Payments for Property Taxes

Education

1. Eliminate Minimum Levy Adjustment
2. Eliminate the Levy Criteria for the Averaging Adjustment
3. Modify Limits on School District Budget Authority
4. Distribute Direct (foundation) Aid to all School Districts
5. Increase the Allocated Income Tax
6. Increase State Support for Community Colleges (for property tax relief)

Funding Alternatives to Support the Above

1. Reallocate Spending
2. New Sources of Revenue
3. Increase Current Tax Sources

Comments of the Committee Chairs

It is not usual for Committees to bring forward separate Legislative Resolutions that are folded into a single review initiative. However, we felt the connection between tax revenues and education funding was so intertwined that a collaborative approach was necessary. Our seven year history of serving together in the Legislature left us with no reservations about our ability to work collaboratively in our roles as Committee Chairs but we are deeply grateful to the members of our respective committees for the respectful, generous and intelligent level of discussion and debate they brought to meetings. Their efforts were the reason we were productive.

Very early in our deliberations the joint committee recognized that the size of the imbalance of property tax funding for K-12 education and the State's current economic situation were going to be significant challenges. Accordingly, solutions will need to address two key areas:

1. Rebalancing will be achieved through multiple approaches over several years. Metaphorically, we refer to this approach as "bunts and singles".
2. Solutions must contend with the reality of term limits. We are both entering our final session as Legislators, as are other key participants on the committee including the speaker and Chair of Appropriations. This presents a challenge to the multi-year approach necessary to achieve a re-balance. Because of this we reached out to the Governor's Office with regular briefings and individual meetings. At the same time the Governor's office reciprocated in kind. With both branches of government focused on an over reliance on property taxes to fund education we believe the initiative will remain a priority for several years to come.

It must be noted that there was no joint committee bill proposed in this study nor did we, as Chairs, ever contemplate that this would be an outcome. The process we established, the options discussed and conclusions will serve as guidance as we work with the Governor and the Legislature. Specifically, several Senators have made clear their intention to submit bills that fit the "bunts and singles" description. The conclusions of the joint committee will be beneficial in evaluating the "fit" of these bills as solutions. We remain hopeful that legislation will be introduced and ultimately passed into law that provide some steps to providing the property tax relief desired by so many citizens.

That being said, as we conclude this joint effort and submit this report, we realize all too well that some Nebraska taxpayers, particularly those who are real property owners, may deem this effort to fall short of their expectations. Their concerns are not lost on us, but neither is the realization that this issue is not an easy one to solve, nor is there a one 'silver bullet' solution.

There are two things we are most certain of - Nebraskans value education and want to make sure that, whatever we do, we retain the level of quality we have in our schools throughout this state. But we also know that we rely too heavily on property taxes to fund those schools. This imbalance did not occur overnight. We believe the efforts of this joint committee have put us on a path to address this dilemma and return us to a more balanced approach to funding public K-12 education in this state.

Senator Kate Sullivan
District 41
Chair, Education Committee

Senator Mike Gloor
District 35
Chair, Revenue Committee

Appendices

ONE HUNDRED FOURTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 332

Introduced by Gloor, 35.

PURPOSE: The first recommendation by the 2013 Tax Modernization Committee regarding property taxes was to increase the state aid commitment to schools to offset property tax use and reduce property taxes as a share of total state and local taxes. The purpose of this resolution is to continue the work of the Tax Modernization Committee by further examining the tax revenues for public schools and to develop recommendations for any changes to the current structure of such tax revenues. The study committee is encouraged to work with the Education Committee of the Legislature to examine the issues involved in this study.

The study shall examine, but not be limited to, the following issues:

- (1) Fairness and equity between and among taxpayers of Nebraska;
- (2) Efficiency and effectiveness in the availability of tax resources necessary to educate the public school students of Nebraska;
- (3) Stability in the resources available to school districts and the tax expectations for citizens of the state in light of the unique constitutional limitations imposed by the uniformity clause of our state constitution; and
- (4) Competitiveness for the state in terms of the state's ability to attract and keep well-paying jobs and investments based on the state's economic climate.

The study committee shall examine relevant studies, literature, and any other information with a focus on the mix of taxable resources available and used to support public education, as well as any other information deemed appropriate by the study committee.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

ONE HUNDRED FOURTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 344

Introduced by Education Committee: Sullivan, 41, Chairperson; Baker, 30; Cook, 13; Groene, 42; Kolowski, 31; Morfeld, 46; Pansing Brooks, 28; Schnoor, 15.

PURPOSE: The purpose of this resolution is to examine the financing of public education and develop recommendations for improving school funding in Nebraska. Providing quality education through Nebraska's public schools is essential to the quality of life for all citizens of the state. In addition, the first recommendation by the 2013 Tax Modernization Committee regarding property taxes was to increase the state aid commitment to schools to offset property tax use and reduce property taxes as a share of total state and local taxes. Therefore, the study committee is encouraged to work with the Revenue Committee of the Legislature to examine the issues involved in this study. The study shall examine, but not be limited to, the following issues:

(1) Fairness and equity for public school students in all parts of the state;

(2) Efficiency and effectiveness in the use of tax resources to educate the public school students of Nebraska;

(3) Stability in the resources available to school districts, particularly in times of economic volatility; and

(4) Competitiveness for the state in terms of the state's ability to attract and keep well-paying jobs and investments based on a workforce educated for success.

The study committee shall examine school finance policy in other states and relevant studies and literature with a focus on the mix of taxable resources used to support education, strategies for addressing economic volatility, and other issues as determined by the committee.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FOURTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Education Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Timeline of Joint Education and Revenue Committee Meetings and Hearings

1st Joint Exec Meeting EDU/REV

August 27, 12:30pm – 5:00pm & August 28, 8:30am – 1:30pm

2nd Joint Exec Meeting EDU/REV

September 23, 1:00pm – 5:00pm & September 24, 8:30am – 12:00pm

3rd Joint Exec Meeting EDU/REV

October 15, 9:00am – 5:00pm

Joint Public Hearing EDU/REV

November 12

Invited testimony from 9:00am – 12:00pm

Testimony began at 1:30pm, hearing adjourned at 6:00pm

Final Joint Meeting

November 30, 9:00am – 3:00pm

List of documents provided to the Joint Committee Members as background information regarding property taxes and education finance.

- 1) Document 1 – This is a revised version of the Property Tax section of the Tax Modernization Committee Report (LR 155)

<http://news.legislature.ne.gov/rev/files/2015/07/TMCPropTax.pdf>

- 2) Document Set 2 – The final report of the 1990 School Finance Review Commission and an executive summary of the complete report

Final Report -

http://www.nebraskalegislature.gov/pdf/reports/committee/education/1990_sfrc_final.pdf

Executive Summary -

<http://news.legislature.ne.gov/rev/files/2015/07/1990-School-Finance-Review-Commission-Exec-Summary.pdf>

- 3) Document Set 3 – Tax information compiled by 2007 Revenue Committee & Legislative Fiscal Office Staff

Introduction -

<http://news.legislature.ne.gov/rev/files/2015/07/Memo3.pdf>

2007 Executive Summary –

<http://news.legislature.ne.gov/rev/files/2015/07/2007ExecutiveSummary.pdf>

2007 Index Page – This will take you to all the charts, graphs & reports.

<http://news.legislature.ne.gov/rev/files/2015/07/2007IndexPage.pdf>

- 4) Document Set 4 – This document contains both historical and current Nebraska K-12 school data prepared by Legislative Fiscal Office

<http://news.legislature.ne.gov/rev/files/2015/08/Historical-Current-School-Data-2015.pdf>

- 5) Document Set 5 – This is a summary of LR 566 (Hadley) from 2014 prepared by Bill Lock

Summary –

<http://news.legislature.ne.gov/rev/files/2015/07/NewExSummBillsAg.pdf>

Full Report –

http://nebraskalegislature.gov/pdf/reports/committee/revenue/2014_lr566.pdf

- 6) Document Set 6 – This document provides a simplified look at the revenue sources available to school districts. It is modeled after “School Finance Made Easy” by Education Committee Legal Counsel Tammy Barry.

<http://news.legislature.ne.gov/rev/files/2015/07/Timeline-with-Milestones-School-District-Resources-Simplified-.pdf>

TIMELINE OF MAJOR TAX CHANGES 2012-2015

Prior to the formation of the Tax Modernization Committee during the 2013 Interim, the Legislature passed several significant changes to the tax system.

2012 Session

LB970 (Cornett)

- This reduced the individual income tax rates in three of the four brackets, leaving the top rate as is;
- All four of the brackets were expanded
- Three year (2012-2014) phased-in cost of the bill was estimated at \$97,177,000.

2013 Session

LB573 (Harr)

- An employee stock ownership plan (ESOP) is a "qualified corporation" under the 100% exclusion provisions for special capital gains;
- Any participant in an ESOP who redeems their stock when they retire may claim the exclusion from taxable income for all distributions received from the ESOP;
- Cost for first full year of implementation (FY2014-2015) estimated at \$ 961,000

LB308 (Schumacher)

- Repealed the alternative minimum tax for taxable years beginning or deemed to begin on or after January 1, 2014;
- AM 583 (Revenue Committee) merged the provisions of LB 457 (Krist) into LB 308 and changed the net operating loss (NOL) carry forward rule from five to 20;
- Cost for first full year of implementation for both changes (FY2014-2015) estimated at \$8,075,000

2014 Session

The following bills were intended to address some of the recommendations of the Tax Modernization Committee.

LB987 (Hadley)

- Begins indexing the income tax brackets for inflation for tax years beginning or deemed to begin on or after January 1, 2015 (reduces "bracket creep" which occurs when brackets are not adjusted over time for inflation);
- Increases the income thresholds under which Social Security Income is exempt from taxation;
 - Married filing joint exemption threshold is \$58,000;
 - All other filers \$43,000

- Cost for first full year of implementation for both changes (FY2015-2016) estimated at \$24,930,000;
- AM2458 (Janssen) allows military retirees to make a one-time election within two years of retirement from the military to exempt up to 40 percent of their military retirement income for a period of seven consecutive years or they may elect to exclude 15 percent of their military retirement income at age 67 for all subsequent tax years;
- Cost for first full year of implementation (FY2015-2016) estimated at \$656,000.

LB96 (Dubas)

- Exempts agricultural machinery and equipment repair and replacement parts from sales and use tax;
- Cost for first full year of implementation (FY2015-2016) estimated at \$9,656,000

LB986 (Revenue Committee)

- Increases the income limitations for all categories of homestead exemptions;
- Exempt amounts (previously 25%, 40 %, etc.) are also adjusted (now 10%, 20%, etc.);
- Thresholds indexed annually for inflation;
- Adds developmentally disabled individuals as qualified claimants;
- Three year (2014-2017) cost estimated at \$15,690,000.

LB905 (Budget Bill)

Although not a Revenue Committee bill, the Committee did support the transfer of \$25 million from the Cash Reserve Fund to the Property Tax Credit Fund, which was in addition to the \$115 million that was already available for a total of \$140 million.

2015 Session

- Property Tax Credit Fund will now receive \$204 M in each year of the current biennium.

LB259 (Gloor)

- Creates the Personal Property Tax Relief Act which allows an annual exclusion for the first \$10,000 of value for personal property;
- First year cost estimated at \$20,000,000

Options list generated by members of the joint committee:

- Increasing the Property Tax Credit Fund
- Assessment practices for agricultural land
- Decreasing the valuation for agricultural land for purposes of the state aid formula
- Direct aid for all school districts
- Decreasing school district levy limits
- Modifying school district budget limits
- Eliminating reductions in state aid to school districts that do not meet qualifying levies
- Reallocating current state spending
- New tax sources to allow a shift away from property taxes
- Increasing current tax sources to allow a shift away from property taxes

**Public Hearing on LR 332 (Gloor) & LR 344 (Education
Committee)**

Thursday, November 12, 2015 in Room 1113

- 9:00 Introductions
- 9:05 Speaker Hadley – Tax Modernization Committee
- 9:15 Expert Panel – 10 minutes each
 No questions until all 3 have presented their formal testimony
- Bruce Johnson
 Cathy Lang
 Bob Wickersham
- 9:45 Questions for the Expert Panel
- 10:30 Break
- 10:45 Invited Advocacy Groups – 3 minutes each
- 12:00 Lunch Break
- 1:30 Continue Invited Groups followed by General Public – 3
 minutes each
- 5:00 Adjourn

*The Hearing adjourned at 6:00pm

Joint Education & Revenue Committee Interim Public Hearing

Testifier List

HEARING ROOM 1113
November 12, 2015 – 9:00 a.m.

REVENUE COMMITTEE MEMBERS:

Senator Mike Gloor, Chairperson
Senator Paul Schumacher, Vice Chair
Senator Lydia Brasch
Senator Al Davis
Senator Burke Harr
Senator Jim Scheer
Senator Jim Smith
Senator Kate Sullivan

Speaker Galen Hadley
Senator Heath Mello

COMMITTEE STAFF:

Mary Jane Egr Edson, Legal Counsel
Kay Bergquist, Research Analyst
Krissa Delka, Committee Clerk

EDUCATION COMMITTEE MEMBERS:

Senator Kate Sullivan, Chairperson
Senator Rick Kolowski, Vice Chair
Senator Roy Baker
Senator Mike Groene
Senator Bob Krist
Senator Adam Morfeld - **ABSENT**
Senator Patty Pansing Brooks
Senator Dave Schnoor

COMMITTEE STAFF:

Tammy Barry, Legal Counsel
LaMont Rainey, Legal Counsel
Mandy Mizerski, Committee Clerk

LR 332 (Gloor) & LR 344 (Education Committee)

Expert Testifiers:

Dr. Bruce Johnson – Professor Emeritus, UNL
Catherine Lang – Accelerate Nebraska
Bob Wickersham – Former State Senator

Requested Testifiers:

Jim Vokal – Platte Institute
Dr. Ernie Goss – Nebraska Chamber of Commerce, Lincoln Chamber, Omaha Chamber
Larry Dix – Nebraska Association of County Officials, (NACO)
John Spatz – National Association of School Boards, (NASB)
Steve Nelson – Nebraska Farm Bureau
Jon Habben – Nebraska Rural Community Schools Association (NRCSA)
Dr. Vern Fisher – Schools Taking Action for Nebraska Children's Education, (STANCE)

Galen Boldt – Schools Taking Action for Nebraska Children’s Education, (STANCE)
Troy Loeffelholz – Greater Nebraska Schools Association, (GNSA)
Pete McClymont – Nebraska Cattlemen
Traci Bruckner – Center for Rural Affairs
Renee Fry – OpenSky Policy Institute

Public Testimony:

Dr. Caroline Winchester – Chadron Public Schools
Steve Joel – Lincoln Public Schools
Dennis Baack – Nebraska Community College Association
Michael Dwyer – Arlington, NE
Nancy Fulton – Nebraska State Education Association, (NSEA)
Shirley Bartels – Sterling, NE
Matthew Eash – Nebraska School Finance Strategies, Inc.
Tim Hruza – Lincoln Independent Business Association, (LIBA)
James Stuart – Lincoln, NE
David Wright – Neligh, NE
Connie Knoche – Omaha Public Schools
Mike Pietzyk – Burr, NE

Submitted Written Testimony:

Frank Harwood – Bellevue Public Schools
Al Guenther – Dunbar, NE,
Craig Kautz – Hastings Public Schools
Dr. Vern Fisher – South Sioux City Community Schools