

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 340

Introduced by Wightman, 36; Avery, 28; Carlson, 38; Christensen,
44; Fulton, 29; Wallman, 30; White, 8;

Read first time January 11, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701, 77-27,132, 79-1008.01, and 79-1018.01, Revised
3 Statutes Cumulative Supplement, 2006; to authorize
4 a local income tax for school capital construction
5 purposes; to harmonize provisions; and to repeal the
6 original sections.

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

1 Section 1. Section 77-2701, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, and
4 77-27,228 to 77-27,235 and section 2 of this act shall be known and
5 may be cited as the Nebraska Revenue Act of 1967.

6 Sec. 2. (1) A school district, local system, or learning
7 community may impose a local resident individual income tax upon
8 residents of the school district, local system, or learning
9 community which is approved by a vote of the registered voters
10 of the school district, local system, or learning community. The
11 school board or learning community coordinating council may call
12 for the election by resolution. The county clerk or election
13 commissioner shall place the question on the primary or general
14 election ballot or call for a special election on the issue after
15 the receipt of the resolution. The election shall be held pursuant
16 to the Election Act. Upon the approval of the income tax by a
17 majority of those voting on the issue, the income tax shall be
18 imposed for all taxable years beginning or deemed to being on or
19 after the first January 1 following the election under the Internal
20 Revenue Code of 1986, as amended. Any income tax approved under
21 this section shall terminate pursuant to its terms or by a majority
22 vote of the registered voters of the school district, local system,
23 or learning community voting on the issue to terminate the income
24 tax. The question of terminating the income tax may be submitted to
25 the registered voters by resolution of the school board or learning

1 community coordinating council.

2 (2) A local income tax imposed pursuant to subsection (1)
3 of this section shall be subject to the following:

4 (a) The tax rate shall be set as a percentage of a
5 taxpayer's Nebraska income tax liability, not to exceed fifteen
6 percent of Nebraska income tax liability; and

7 (b) The proceeds may only be used for bond payments on
8 bonds issued on or after the effective date of this act for any
9 purpose for which a tax could be levied under sections 79-1098 to
10 79-10,101, 79-10,110, or 79-10,117 to 79-10,125, subdivision (2) of
11 section 79-10,126, or subdivision (2) of section 79-10,126.01

12 (3) The Department of Revenue shall administer all local
13 income taxes imposed pursuant to subsection (1) of this section.
14 The department may prescribe forms and adopt and promulgate
15 rules and regulations for the making of returns and for the
16 ascertainment, assessment, and collection of local income taxes.
17 The department shall collect the tax imposed by any school
18 district, local system, or learning community concurrently with
19 collection of the state income tax in the same manner as the state
20 income tax is collected. The department shall prepare special forms
21 for calculating an adequate amount of withholding for any person
22 subject to withholding who is a resident of any school district,
23 local system, or learning community which is levying a local income
24 tax. The department shall remit all proceeds from any local income
25 tax to the State Treasurer for credit to a separate fund for

1 each school district, local system, or learning community levying
2 a local income tax for each tax year for which the tax is levied.
3 Any refund of local income tax shall be paid from the fund for
4 the tax year for which the refund is sought. A fund shall be paid
5 out to the school district, local system, or learning community
6 levying the tax in twelve monthly installments beginning in the
7 September following the end of the year for which the tax was
8 levied. Payments shall be issued by the end of each month. Any
9 money in a fund available for investment shall be invested by the
10 state investment officer pursuant to the Nebraska Capital Expansion
11 Act and the Nebraska State Funds Investment Act.

12 (4) Upon any claim of illegal assessment and collection
13 of the local income tax, any claim that the tax was calculated
14 improperly, or any claim resulting from the proper amendment of a
15 prior return, the taxpayer shall have the same remedies provided
16 for similar claims relating to the state income tax, including
17 any interest allowable on the refund. If there is money in a fund
18 provided for in subsection (3) of this section for the year which
19 gives rise to the refund claim, any refund and interest shall be
20 paid by the State Treasurer from the fund. If there is no money
21 in such fund, any refund and interest shall be paid by the school
22 district, local system, or learning community levying the local
23 income tax.

24 (5) For purposes of administering a local income tax
25 imposed, statutory provisions relating to the state income tax

1 shall apply, including provisions relating to the availability
2 of records for inspection and audit by the department, enforcing
3 collection of the tax, interest, penalties, and estimated payments.
4 The department shall adopt and promulgate rules and regulations and
5 prescribe such forms as are necessary to carry out this section.

6 Sec. 3. Section 77-27,132, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 77-27,132 (1) There is hereby created a fund to be
9 designated the Revenue Distribution Fund which shall be set apart
10 and maintained by the Tax Commissioner. Revenue not required to be
11 credited to the General Fund or any other specified fund may be
12 credited to the Revenue Distribution Fund. Credits and refunds of
13 such revenue shall be paid from the Revenue Distribution Fund. The
14 balance of the amount credited, after credits and refunds, shall be
15 allocated as provided by the statutes creating such revenue.

16 (2) The Tax Commissioner shall pay to a depository bank
17 designated by the State Treasurer all amounts collected under the
18 Nebraska Revenue Act of 1967. The Tax Commissioner shall present
19 to the State Treasurer bank receipts showing amounts so deposited
20 in the bank, and of the amounts so deposited the State Treasurer
21 shall credit (a) to the Highway Trust Fund all of the proceeds
22 of the sales and use taxes derived from motor vehicles, trailers,
23 and semitrailers, except that the proceeds equal to any sales tax
24 rate provided for in section 77-2701.02 that is in excess of five
25 percent derived from motor vehicles, trailers, and semitrailers

1 shall be credited to the Highway Allocation Fund, and (b) to the
2 separate funds created under section 2 of this act all of the
3 proceeds of the local income tax collected under the act. The
4 balance of all amounts collected under the Nebraska Revenue Act of
5 1967 shall be credited to the General Fund.

6 Sec. 4. Section 79-1008.01, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 79-1008.01 (1) Except as provided in subsection (2) of
9 this section and sections 79-1008.02 to 79-1010, each local system
10 shall receive equalization aid in the amount that the total formula
11 need of each local system, as determined pursuant to sections
12 79-1007.01 to 79-1007.10, exceeds its total formula resources as
13 determined pursuant to sections 79-1015.01 to 79-1018.01.

14 (2) Except as provided in section 79-1008.02, a local
15 system shall not receive state aid for any school fiscal year,
16 except school fiscal years 2002-03 through 2007-08, which is less
17 than an amount equal to the difference of eighty-five percent of
18 the amount of aid certified in the preceding school fiscal year
19 minus an amount equal to any increase in the adjusted valuation
20 between the adjusted valuation used for the certification of aid in
21 the preceding school fiscal year and the adjusted valuation used
22 for the aid being calculated multiplied by the maximum levy, for
23 the school fiscal year for which aid is being certified, pursuant
24 to subdivision (2)(a) or (b) of section 77-3442 without a vote
25 pursuant to section 77-3444.

1 (3) Except as provided in section 79-1008.02, a local
2 system shall not receive state aid for school fiscal years
3 2002-03 through 2007-08 which is less than an amount equal to
4 the difference of eighty-three and three-fourths percent of the
5 amount of aid certified in the preceding school fiscal year minus
6 an amount equal to any increase in the adjusted valuation between
7 the adjusted valuation used for the certification of aid in the
8 preceding school fiscal year and the adjusted valuation used for
9 the aid being calculated multiplied by the maximum levy, for the
10 school fiscal year for which aid is being certified, pursuant to
11 subdivision (2) (a) of section 77-3442 without a vote pursuant to
12 section 77-3444.

13 (4) Except as provided in subsection (2) or (3) of this
14 section, no local system may receive equalization aid such that,
15 when total aid is added to a levy ten cents less than the maximum
16 levy, for the school fiscal year for which aid is being certified,
17 pursuant to subdivision (2) (a) or (b) of section 77-3442 without a
18 vote pursuant to section 77-3444, multiplied by the local system's
19 adjusted valuation, would result in total local system revenue from
20 state aid plus property tax receipts and local income tax receipts
21 which exceeds the total of:

22 (a) The sum of state aid, receipts from other school
23 districts related to annexation, and property tax receipts and
24 local income tax receipts received by the local system during the
25 preceding school fiscal year multiplied by the total of (i) 1.01

1 plus (ii) the applicable allowable growth rate for the local system
2 calculated pursuant to section 79-1026 as determined for the school
3 fiscal year immediately preceding the school fiscal year when aid
4 is to be distributed plus (iii) the percentage growth in formula
5 students from the certification of state aid for the immediately
6 preceding school fiscal year to the formula students for the
7 certification of state aid for the current school fiscal year,
8 except that the percentage growth shall not be less than zero;

9 (b) Unused budget authority authorized pursuant to
10 section 79-1030 for all school districts in the local system;

11 (c) The difference between the other actual receipts
12 included in local system formula resources for the certification
13 of state aid in the preceding school fiscal year and other
14 actual receipts included in local system formula resources for the
15 certification of state aid for the current school fiscal year,
16 except that such difference shall not be less than zero; and

17 (d) The absolute value of any negative prior year
18 adjustment pursuant to section 79-1065.

19 For local systems that have reorganized, state aid,
20 property tax receipts, local income tax receipts, and number
21 of formula students shall be attributed based on valuation.
22 The formation of a learning community shall be considered a
23 reorganization for purposes of this subsection. The revenue from
24 property tax receipts shall be calculated by multiplying the
25 reported general fund common levy by the assessed valuation subject

1 to the levy divided by one hundred.

2 (5) For all school fiscal years except school fiscal
3 years 2002-03 through 2007-08, the aid that is not distributed
4 through equalization based on subsection (4) of this section
5 shall be distributed through this subsection to the extent local
6 systems qualify for such distributions. Local systems qualify
7 for distribution under this subsection if they have nine hundred
8 or less formula students and adjusted general fund operating
9 expenditures per formula student less than the average for all
10 local systems with nine hundred or less formula students. The aid
11 shall be distributed proportionally to qualifying districts based
12 on the dollar amount each local system's calculated state aid plus
13 the product of a levy of one dollar multiplied by the assessed
14 valuation divided by one hundred is below ninety percent of state
15 aid plus property tax receipts received by the local system during
16 the preceding school fiscal year. No system shall receive aid
17 pursuant to this subsection such that the calculated state aid plus
18 the product of a levy of one dollar multiplied by the assessed
19 valuation divided by one hundred is ninety percent or more of state
20 aid plus property tax receipts received by the local system during
21 the preceding school fiscal year.

22 (6) For school fiscal years 2002-03 through 2007-08,
23 the aid that is not distributed through equalization based on
24 subsection (3) of this section shall be distributed through
25 this subsection to the extent local systems qualify for such

1 distributions. Local systems qualify for distribution under this
2 subsection if they have nine hundred or less formula students and
3 adjusted general fund operating expenditures per formula student
4 less than the average for all local systems with nine hundred or
5 less formula students. The aid shall be distributed proportionally
6 to qualifying districts based on the dollar amount each local
7 system's calculated state aid plus the product of a levy equal to
8 the maximum levy, for the school fiscal year for which aid is being
9 certified, pursuant to subdivision (2) (a) or (b) of section 77-3442
10 without a vote pursuant to section 77-3444, multiplied by the
11 assessed valuation is below eighty-eight and three-fourths percent
12 of state aid plus property tax receipts received by the local
13 system during the preceding school fiscal year. No system shall
14 receive aid pursuant to this subsection such that the calculated
15 state aid plus the product of a levy equal to the maximum levy, for
16 the school fiscal year for which aid is being certified, pursuant
17 to subdivision (2) (a) or (b) of section 77-3442 without a vote
18 pursuant to section 77-3444, multiplied by the assessed valuation
19 is eighty-eight and three-fourths percent or more of state aid
20 plus property tax receipts received by the local system during the
21 preceding school fiscal year.

22 Sec. 5. Section 79-1018.01, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 79-1018.01 Local system formula resources include other
25 actual receipts available for the funding of general fund operating

1 expenditures as determined by the department for the second school
2 fiscal year immediately preceding the school fiscal year in which
3 aid is to be paid, except that receipts from the Community
4 Improvements Cash Fund, receipts acquired pursuant to the Low-Level
5 Radioactive Waste Disposal Act, and, beginning with the calculation
6 of state aid to be distributed in school fiscal year 2004-05,
7 tuition receipts from converted contracts shall not be included.

8 Other actual receipts include:

9 (1) Public power district sales tax revenue;

10 (2) Fines and license fees;

11 (3) Tuition receipts from individuals, other districts,
12 or any other source except receipts derived from adult education,
13 tuition receipts from converted contracts, and receipts from
14 educational entities as defined in section 79-1332 for providing
15 distance education courses through the Distance Education Council
16 to such educational entities;

17 (4) Transportation receipts;

18 (5) Interest on investments;

19 (6) Other miscellaneous noncategorical local receipts,
20 not including receipts from private foundations, individuals,
21 associations, or charitable organizations;

22 (7) Special education receipts, excluding grant funds
23 received pursuant to section 9-812;

24 (8) Special education receipts and non-special education
25 receipts from the state for wards of the court and wards of the

1 state;

2 (9) All receipts from the temporary school fund.
3 Beginning with the calculation of aid for school fiscal year
4 2002-03 and each school fiscal year thereafter, receipts from
5 the temporary school fund shall only include receipts pursuant
6 to section 79-1035 and the receipt of funds pursuant to section
7 79-1036 for property leased for a public purpose as set forth in
8 subdivision (1)(a) of section 77-202;

9 (10) Motor vehicle tax receipts received on or after
10 January 1, 1998;

11 (11) Pro rata motor vehicle license fee receipts;

12 (12) Other miscellaneous state receipts excluding revenue
13 from the textbook loan program authorized by section 79-734;

14 (13) Impact aid entitlements for the school fiscal year
15 which have actually been received by the district to the extent
16 allowed by federal law;

17 (14) All other noncategorical federal receipts;

18 (15) All receipts pursuant to the enrollment option
19 program under sections 79-232 to 79-246;

20 (16) Receipts under the federal Medicare Catastrophic
21 Coverage Act of 1988, as such act existed on May 8, 2001, as
22 authorized pursuant to sections 43-2510 and 43-2511 but only to the
23 extent of the amount the local system would have otherwise received
24 pursuant to the Special Education Act; and

25 (17) Receipts for accelerated or differentiated

1 curriculum programs pursuant to sections 79-1106 to 79-1108.03; and

2 -

3 (18) Local income tax receipts.

4 Sec. 6. Original sections 77-2701, 77-27,132, 79-1008.01,

5 and 79-1018.01, Revised Statutes Cumulative Supplement, 2006, are

6 repealed.