

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1318

Introduced by Linehan, 39.

Read first time January 17, 2024

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
2 77-4602, Revised Statutes Cumulative Supplement, 2022, and sections
3 77-6702 and 77-6703, Revised Statutes Supplement, 2023; to change
4 provisions relating to certain transfers to the Cash Reserve Fund;
5 to change the Nebraska Property Tax Incentive Act as prescribed; to
6 repeal the original sections; and to declare an emergency.

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

1 Section 1. Section 77-4602, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 77-4602 (1) Within fifteen days after the end of each month, the Tax
4 Commissioner shall provide a public statement of actual General Fund net
5 receipts, a comparison of such actual net receipts to the monthly
6 estimated net receipts from the most recent forecast provided by the
7 Nebraska Economic Forecasting Advisory Board pursuant to section
8 77-27,158, and a comparison of such actual net receipts to the monthly
9 actual net receipts for the same month of the previous fiscal year.

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

16 (3)(a) Within fifteen days after the end of fiscal year 2023-24
17 ~~2020-21~~ and each fiscal year thereafter ~~through fiscal year 2022-23~~, the
18 Tax Commissioner shall determine the balance of the Cash Reserve Fund.

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

21 (i) The Tax Commissioner shall determine:

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

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

28 (ii) If the amounts calculated under subdivisions (3)(b)(i)(A) and
29 (3)(b)(i)(B) of this section are both positive numbers, the Tax
30 Commissioner shall certify (A) the amount determined under subdivision
31 (3)(b)(i)(A) of this section and (B) fifty percent of the amount

1 determined under subdivision (3)(b)(i)(B) of this section to the State
2 Treasurer. The State Treasurer shall transfer the difference between the
3 two certified amounts to the Cash Reserve Fund.

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

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

12 (i) The Tax Commissioner shall determine:

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

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

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

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

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

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

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

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

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

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

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

30 ~~(d) Nothing in this subsection prohibits the balance in the Cash~~
31 ~~Reserve Fund from exceeding sixteen percent of the total budgeted General~~

1 ~~Fund expenditures each fiscal year if the Legislature determines it~~
2 ~~necessary to prepare for and respond to budgetary requirements which may~~
3 ~~include, but are not limited to, capital construction projects and~~
4 ~~responses to emergencies.~~

5 Sec. 2. Section 77-6702, Revised Statutes Supplement, 2023, is
6 amended to read:

7 77-6702 For purposes of the Nebraska Property Tax Incentive Act:

8 ~~(1) Allowable growth percentage means the percentage increase, if~~
9 ~~any, in the total assessed value of all real property in the state from~~
10 ~~the prior year to the current year, as determined by the department;~~

11 ~~(1) (2) Community college taxes means property taxes levied on real~~
12 ~~property in this state by a community college area, excluding the~~
13 ~~following:~~

14 (a) Any property taxes levied for bonded indebtedness;

15 (b) Any property taxes levied as a result of an override of limits
16 on property tax levies approved by voters pursuant to section 77-3444;
17 and

18 (c) Any property taxes that, as of the time of payment, were
19 delinquent for five years or more;

20 ~~(2) (3) Department means the Department of Revenue;~~

21 ~~(3) (4) Eligible taxpayer means any individual, corporation,~~
22 ~~partnership, limited liability company, trust, estate, or other entity~~
23 ~~that pays school district taxes or community college taxes during a~~
24 ~~taxable year; and~~

25 ~~(4) (5) School district taxes means property taxes levied on real~~
26 ~~property in this state by a school district or multiple-district school~~
27 ~~system, excluding the following:~~

28 (a) Any property taxes levied for bonded indebtedness;

29 (b) Any property taxes levied as a result of an override of limits
30 on property tax levies approved by voters pursuant to section 77-3444;
31 and

1 (c) Any property taxes that, as of the time of payment, were
2 delinquent for five years or more.

3 Sec. 3. Section 77-6703, Revised Statutes Supplement, 2023, is
4 amended to read:

5 77-6703 (1) For taxable years beginning or deemed to begin on or
6 after January 1, 2020, under the Internal Revenue Code of 1986, as
7 amended, there shall be allowed to each eligible taxpayer a refundable
8 credit against the income tax imposed by the Nebraska Revenue Act of 1967
9 or against the franchise tax imposed by sections 77-3801 to 77-3807. The
10 credit shall be equal to the credit percentage for the taxable year, as
11 set by the department under subsection (2) of this section, multiplied by
12 the amount of school district taxes paid by the eligible taxpayer during
13 such taxable year.

14 (2)(a) For taxable years beginning or deemed to begin during
15 calendar year 2020, the department shall set the credit percentage so
16 that the total amount of credits for such taxable years shall be one
17 hundred twenty-five million dollars;

18 (b) For taxable years beginning or deemed to begin during calendar
19 year 2021, the department shall set the credit percentage so that the
20 total amount of credits for such taxable years shall be one hundred
21 twenty-five million dollars plus either (i) the amount calculated for
22 such calendar year under subdivision (3)(b)(ii)(B) of section 77-4602 or
23 (ii) the amount calculated for such calendar year under subdivision (3)
24 (c)(ii)(B) of section 77-4602, whichever is applicable;

25 (c) For taxable years beginning or deemed to begin during calendar
26 year 2022, the department shall set the credit percentage so that the
27 total amount of credits for such taxable years shall be five hundred
28 forty-eight million dollars;

29 (d) For taxable years beginning or deemed to begin during calendar
30 year 2023, the department shall set the credit percentage so that the
31 total amount of credits for such taxable years shall be five hundred

1 sixty million seven hundred thousand dollars; and

2 (e) For taxable years beginning or deemed to begin during calendar
3 year 2024 and each calendar year thereafter, the department shall set the
4 credit percentage so that the total amount of credits for such taxable
5 years shall be the maximum amount of credits allowed in the prior year
6 plus either (i) the amount calculated for such calendar year under
7 subdivision (3)(b)(ii)(B) of section 77-4602 or (ii) the amount
8 calculated for such calendar year under subdivision (3)(c)(ii)(B) of
9 section 77-4602, whichever is applicable.

10 ~~(e) For taxable years beginning or deemed to begin during calendar~~
11 ~~year 2024 through calendar year 2028, the department shall set the credit~~
12 ~~percentage so that the total amount of credits for such taxable years~~
13 ~~shall be the maximum amount of credits allowed in the prior year~~
14 ~~increased by the allowable growth percentage;~~

15 ~~(f) For taxable years beginning or deemed to begin during calendar~~
16 ~~year 2029, the department shall set the credit percentage so that the~~
17 ~~total amount of credits for such taxable years shall be the maximum~~
18 ~~amount of credits allowed in the prior year increased by the allowable~~
19 ~~growth percentage plus an additional seventy-five million dollars; and~~

20 ~~(g) For taxable years beginning or deemed to begin during calendar~~
21 ~~year 2030 and each calendar year thereafter, the department shall set the~~
22 ~~credit percentage so that the total amount of credits for such taxable~~
23 ~~years shall be the maximum amount of credits allowed in the prior year~~
24 ~~increased by the allowable growth percentage.~~

25 (3) If the school district taxes are paid by a corporation having an
26 election in effect under subchapter S of the Internal Revenue Code, a
27 partnership, a limited liability company, a trust, or an estate, the
28 amount of school district taxes paid during the taxable year may be
29 allocated to the shareholders, partners, members, or beneficiaries in the
30 same proportion that income is distributed for taxable years beginning or
31 deemed to begin before January 1, 2021, under the Internal Revenue Code

1 of 1986, as amended. The department shall provide forms and schedules
2 necessary for verifying eligibility for the credit provided in this
3 section and for allocating the school district taxes paid. For taxable
4 years beginning or deemed to begin on or after January 1, 2021, under the
5 Internal Revenue Code of 1986, as amended, the refundable credit shall be
6 claimed by the corporation having an election in effect under subchapter
7 S of the Internal Revenue Code, the partnership, the limited liability
8 company, the trust, or the estate that paid the school district taxes.

9 (4) For any fiscal year or short year taxpayer, the credit may be
10 claimed in the first taxable year that begins following the calendar year
11 for which the credit percentage was determined. The credit shall be taken
12 for the school district taxes paid by the taxpayer during the immediately
13 preceding calendar year.

14 (5) For the first taxable year beginning or deemed to begin on or
15 after January 1, 2021, and before January 1, 2022, under the Internal
16 Revenue Code of 1986, as amended, for a corporation having an election in
17 effect under subchapter S of the Internal Revenue Code, a partnership, a
18 limited liability company, a trust, or an estate that paid school
19 district taxes in calendar year 2020 but did not claim the credit
20 directly or allocate such school district taxes to the shareholders,
21 partners, members, or beneficiaries as permitted under subsection (3) of
22 this section, there shall be allowed an additional refundable credit.
23 This credit shall be equal to six percent, multiplied by the amount of
24 school district taxes paid during 2020 by the eligible taxpayer.

25 Sec. 4. Original section 77-4602, Revised Statutes Cumulative
26 Supplement, 2022, and sections 77-6702 and 77-6703, Revised Statutes
27 Supplement, 2023, are repealed.

28 Sec. 5. Since an emergency exists, this act takes effect when
29 passed and approved according to law.