

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 320

Introduced by Brandt, 32.

Read first time January 11, 2023

Committee:

1 A BILL FOR AN ACT relating to the Tax Equity and Educational
2 Opportunities Support Act; to amend sections 79-1001, 79-1016, and
3 79-1022, Revised Statutes Cumulative Supplement, 2022; to change
4 provisions relating to state aid value and the amount of state aid;
5 to create a fund; to provide for transfers to and distributions from
6 the fund; to harmonize provisions; and to repeal the original
7 sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1001, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 79-1001 Sections 79-1001 to 79-1033 and section 4 of this act shall
4 be known and may be cited as the Tax Equity and Educational Opportunities
5 Support Act.

6 Sec. 2. Section 79-1016, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 79-1016 (1) On or before August 20, the county assessor shall
9 certify to the Property Tax Administrator the total taxable value by
10 school district in the county for the current assessment year on forms
11 prescribed by the Tax Commissioner. The county assessor may amend the
12 filing for changes made to the taxable valuation of the school district
13 in the county if corrections or errors on the original certification are
14 discovered. Amendments shall be certified to the Property Tax
15 Administrator on or before August 31.

16 (2) On or before October 10, the Property Tax Administrator shall
17 compute and certify to the State Department of Education the adjusted
18 valuation for the current assessment year for each class of property in
19 each school district and each local system. The adjusted valuation of
20 property for each school district and each local system, for purposes of
21 determining state aid pursuant to the Tax Equity and Educational
22 Opportunities Support Act, shall reflect as nearly as possible state aid
23 value as defined in subsection (3) of this section. The Property Tax
24 Administrator shall notify each school district and each local system of
25 its adjusted valuation for the current assessment year by class of
26 property on or before October 10. Establishment of the adjusted valuation
27 shall be based on the taxable value certified by the county assessor for
28 each school district in the county adjusted by the determination of the
29 level of value for each school district from an analysis of the
30 comprehensive assessment ratio study or other studies developed by the
31 Property Tax Administrator, in compliance with professionally accepted

1 mass appraisal techniques, as required by section 77-1327. The Tax
2 Commissioner shall adopt and promulgate rules and regulations setting
3 forth standards for the determination of level of value for state aid
4 purposes.

5 (3) For purposes of this section, state aid value means:

6 (a) For real property other than agricultural and horticultural
7 land, ~~eighty-six~~ ~~ninety-six~~ percent of actual value;

8 (b) For agricultural and horticultural land, ~~forty-two~~ ~~seventy-two~~
9 percent of actual value as provided in sections 77-1359 and ~~to~~ 77-1363.
10 For agricultural and horticultural land that receives special valuation
11 pursuant to section 77-1344, ~~forty-two~~ ~~seventy-two~~ percent of special
12 valuation as defined in section 77-1343; and

13 (c) For personal property, the net book value as defined in section
14 77-120.

15 (4) On or before November 10, any local system may file with the Tax
16 Commissioner written objections to the adjusted valuations prepared by
17 the Property Tax Administrator, stating the reasons why such adjusted
18 valuations are not the valuations required by subsection (3) of this
19 section. The Tax Commissioner shall fix a time for a hearing. Either
20 party shall be permitted to introduce any evidence in reference thereto.
21 On or before January 1, the Tax Commissioner shall enter a written order
22 modifying or declining to modify, in whole or in part, the adjusted
23 valuations and shall certify the order to the State Department of
24 Education. Modification by the Tax Commissioner shall be based upon the
25 evidence introduced at hearing and shall not be limited to the
26 modification requested in the written objections or at hearing. A copy of
27 the written order shall be mailed to the local system within seven days
28 after the date of the order. The written order of the Tax Commissioner
29 may be appealed within thirty days after the date of the order to the Tax
30 Equalization and Review Commission in accordance with section 77-5013.

31 (5) On or before November 10, any local system or county official

1 may file with the Tax Commissioner a written request for a nonappealable
2 correction of the adjusted valuation due to clerical error as defined in
3 section 77-128 or, for agricultural and horticultural land, assessed
4 value changes by reason of land qualified or disqualified for special use
5 valuation pursuant to sections 77-1343 to 77-1347.01. On or before the
6 following January 1, the Tax Commissioner shall approve or deny the
7 request and, if approved, certify the corrected adjusted valuations
8 resulting from such action to the State Department of Education.

9 (6) On or before May 31 of the year following the certification of
10 adjusted valuation pursuant to subsection (2) of this section, any local
11 system or county official may file with the Tax Commissioner a written
12 request for a nonappealable correction of the adjusted valuation due to
13 changes to the tax list that change the assessed value of taxable
14 property. Upon the filing of the written request, the Tax Commissioner
15 shall require the county assessor to recertify the taxable valuation by
16 school district in the county on forms prescribed by the Tax
17 Commissioner. The recertified valuation shall be the valuation that was
18 certified on the tax list, pursuant to section 77-1613, increased or
19 decreased by changes to the tax list that change the assessed value of
20 taxable property in the school district in the county in the prior
21 assessment year. On or before the following July 31, the Tax Commissioner
22 shall approve or deny the request and, if approved, certify the corrected
23 adjusted valuations resulting from such action to the State Department of
24 Education.

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

27 (8) A school district whose state aid is to be calculated pursuant
28 to subsection (5) of this section and whose state aid payment is
29 postponed as a result of failure to calculate state aid pursuant to such
30 subsection may apply to the state board for lump-sum payment of such
31 postponed state aid. Such application may be for any amount up to one

1 hundred percent of the postponed state aid. The state board may grant the
2 entire amount applied for or any portion of such amount. The state board
3 shall notify the Director of Administrative Services of the amount of
4 funds to be paid in a lump sum and the reduced amount of the monthly
5 payments. The Director of Administrative Services shall, at the time of
6 the next state aid payment made pursuant to section 79-1022, draw a
7 warrant for the lump-sum amount from appropriated funds and forward such
8 warrant to the district.

9 Sec. 3. Section 79-1022, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 79-1022 (1)(a) ~~(1)~~ On or before May 1, 2020, and on or before March
12 1 of each year thereafter, the department shall determine the amounts to
13 be distributed to each local system for the ensuing school fiscal year
14 pursuant to the Tax Equity and Educational Opportunities Support Act and
15 shall certify the amounts to the Director of Administrative Services, the
16 Auditor of Public Accounts, and each local system. On or before May 1,
17 2020, and on or before March 1 of each year thereafter, the department
18 shall report the necessary funding level for the ensuing school fiscal
19 year to the Governor, the Appropriations Committee of the Legislature,
20 and the Education Committee of the Legislature. The report submitted to
21 the committees of the Legislature shall be submitted electronically.
22 Certified ~~Except as otherwise provided in this subsection, certified~~
23 state aid amounts, including adjustments pursuant to section 79-1065.02,
24 shall be shown as budgeted non-property-tax receipts and deducted prior
25 to calculating the property tax request in the local system's general
26 fund budget statement as provided to the Auditor of Public Accounts
27 pursuant to section 79-1024.

28 (b) For school fiscal year 2023-24 and each school fiscal year
29 thereafter, notwithstanding any other provision of the Tax Equity and
30 Educational Opportunities Support Act to the contrary, the amount to be
31 distributed to each local system under the act and certified pursuant to

1 this section shall be greater than or equal to ten percent of basic
2 funding. If the amount to be distributed is less than ten percent of
3 basic funding, it shall be increased to equal ten percent of basic
4 funding.

5 (2) Except as provided in this subsection, subsection (8) of section
6 79-1016, and sections 79-1005, 79-1033, and 79-1065.02, the amounts
7 certified pursuant to subsection (1) of this section shall be distributed
8 in ten as nearly as possible equal payments on the last business day of
9 each month beginning in September of each ensuing school fiscal year and
10 ending in June of the following year, except that when a local system is
11 to receive a monthly payment of less than one thousand dollars, such
12 payment shall be one lump-sum payment on the last business day of
13 December during the ensuing school fiscal year.

14 Sec. 4. (1) The Tax Equity and Educational Opportunities Support
15 Act Trust Fund is created.

16 (2) Every year beginning in 2023, the Department of Revenue shall
17 certify to the State Treasurer the amount of credits that remain
18 unclaimed under the Nebraska Property Tax Incentive Act for the tax year
19 completed three years prior. The State Treasurer shall transfer such
20 amount from the General Fund to the Tax Equity and Educational
21 Opportunities Support Act Trust Fund, and all such money shall be held in
22 trust solely for the purposes described in this section.

23 (3) The State Treasurer shall disburse money from the Tax Equity and
24 Educational Opportunities Support Act Trust Fund to the State Department
25 of Education monthly as appropriated by the Legislature to provide state
26 aid pursuant to subdivision (1)(b) of section 79-1022. Any excess money
27 in the fund shall be reserved for future payments of state aid pursuant
28 to subdivision (1)(b) of section 79-1022.

29 (4) Any money in the Tax Equity and Educational Opportunities
30 Support Act Trust Fund available for investment shall be invested by the
31 state investment officer pursuant to the Nebraska Capital Expansion Act

1 and the Nebraska State Funds Investment Act, and the earnings, if any,
2 shall be credited to the fund.

3 Sec. 5. Original sections 79-1001, 79-1016, and 79-1022, Revised
4 Statutes Cumulative Supplement, 2022, are repealed.