

LEGISLATIVE BILL 383

Approved by the Governor March 10, 2011

Introduced by Cornett, 45; at the request of the Governor.

FOR AN ACT relating to revenue and taxation; to amend sections 77-3,119, 77-27,139.02, 77-27,139.03, and 81-15,147, Reissue Revised Statutes of Nebraska, and sections 13-518 and 83-380, Revised Statutes Cumulative Supplement, 2010; to eliminate provisions relating to aid to municipalities, counties, and natural resources districts; to harmonize provisions; to provide an operative date; to repeal the original sections; to outright repeal sections 71-5326, 77-27,136, 77-27,137.01, 77-27,137.03, and 77-27,139, Reissue Revised Statutes of Nebraska, and sections 77-27,137.02 and 81-15,158, Revised Statutes Cumulative Supplement, 2010; and to declare an emergency.

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

Section 1. Section 13-518, Revised Statutes Cumulative Supplement, 2010, is amended to read:

13-518 For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, (i) for fiscal years prior to fiscal year 2003-04, for fiscal years after fiscal year 2004-05 until fiscal year 2007-08, and for fiscal year 2010-11 and each fiscal year thereafter, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined, (ii) for fiscal year 2003-04 and fiscal year 2004-05, the percentage increase in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined, and (iii) for fiscal year 2007-08 through fiscal year 2009-10, community college areas may exceed the base limitation to equal base revenue need calculated pursuant to section 85-2223;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, (h) the tax provided in sections 77-27,223 to 77-27,227 beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776. Funds received pursuant to the nameplate capacity tax levied under section 77-6203 for the first five years after a wind energy generation facility has been commissioned are nonrestricted funds; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-3,202 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to

sections 18-2605, 39-2501 to 39-2520, 60-3,190, ~~77-27,136~~, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, ~~(i) until July 1, 2011, state aid to counties paid pursuant to sections 39-2501 to 39-2520, 47-119.01, 60-3,184 to 60-3,190, 77-27,136, and 77-3618, insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933, and (ii) beginning on July 1, 2011, state aid to counties paid pursuant to sections 39-2501 to 39-2520, and 60-3,184 to 60-3,190, and 77-27,137.03, insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933;~~

(d) For community colleges, state aid to community colleges paid pursuant to the Community College Foundation and Equalization Aid Act or, for fiscal year 2010-11, pursuant to section 90-517;

~~(e) For natural resources districts, state aid to natural resources districts paid pursuant to section 77-27,136;~~

~~(f) (e) For educational service units, state aid appropriated under sections 79-1241.01 to 79-1241.03; and~~

~~(g) (f) For local public health departments as defined in section 71-1626, state aid as distributed under section 71-1628.08.~~

Sec. 2. Section 77-3,119, Reissue Revised Statutes of Nebraska, is amended to read:

77-3,119 (1) The Tax Commissioner shall certify the population of cities and villages to be used for purposes of calculations made pursuant to subdivision (4) of section 18-2603, subdivisions (3)(a) and (b) of section 35-1205, subdivision (1) of section 39-2517, and sections 39-2513 and ~~77-27,137.01. 77-27,139.02.~~ The Tax Commissioner shall transmit copies of such certification to all interested parties upon request.

(2) The Tax Commissioner shall certify the population of each city and village based upon the most recent federal census. The Tax Commissioner shall determine the most recent federal census for each city and village by using the most recent federal census figures available from (a) the most recent federal decennial census, (b) the most recent federal census update or recount certified by the United States Bureau of the Census, or (c) the most recent federal census figure of the city or village plus the population of territory annexed as calculated in sections 18-1753 and 18-1754.

(3) The Tax Commissioner may adopt and promulgate rules and regulations to carry out this section.

Sec. 3. Section 77-27,139.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,139.02 For purposes of sections 77-27,139.01 to 77-27,139.04:

(1) Average per capita property tax levy means the total property taxes levied by all incorporated municipalities in each population group for the immediately preceding fiscal year, except for the amount of property tax levies committed to provide for principal and interest payments on the indebtedness of all incorporated municipalities, divided by the current population of all incorporated municipalities as ~~determined~~ certified by the Department of Revenue pursuant to section ~~77-27,137.01. 77-3,119.~~ The average per capita property tax levy shall be calculated separately for each population group;

(2) Average property tax levy means the total property taxes levied by all incorporated municipalities for the prior year, except for the amount of property tax levies committed to provide for principal and interest payments on the indebtedness of all incorporated municipalities, divided by the total amount of valuation subject to property tax in all incorporated municipalities for the immediately preceding fiscal year;

(3) Population means the population of a municipality as determined in section 77-3,119; and

(4) Population group means one of three groupings of municipalities for which the aid established by sections 77-27,139.01 to 77-27,139.04 is calculated based on the average per capita property tax levy calculated separately for each group. The three population groups shall be (a) municipalities with a population of five thousand inhabitants or more, (b) municipalities with a population between eight hundred and five thousand inhabitants, and (c) municipalities with a population of eight hundred inhabitants or less.

Sec. 4. Section 77-27,139.03, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,139.03 (1) State aid provided to municipalities pursuant to sections 77-27,139.01 to 77-27,139.04 shall be calculated by determining the average property tax levy for operational purposes other than for principal and interest payments on the indebtedness of all incorporated municipalities. The Auditor of Public Accounts shall provide to the Department of Revenue

a list of the bond and nonbond tax request amounts from the most recent budgets filed by incorporated municipalities. The information shall be used to calculate the bond and nonbond tax levies for aid purposes under this section. The auditor shall provide the information to the department by February 1 each year.

(2) Each municipality shall receive state aid from the Municipal Equalization Fund equal to (a) the product of the average per capita property tax of the appropriate population group multiplied by the current population of the municipality minus (b) the product of the average property tax levy multiplied by the certified valuation within the incorporated municipality, except that a municipality shall not receive any aid under this section if the calculation results in a negative number.

(3) If a municipal tax levy for operational purposes was less than the average property tax levy in the immediately preceding fiscal year, the state aid provided to such municipality shall be reduced by twenty percent for each one-cent increment the levy was below the average property tax levy.

(4) If the amount of money in the Municipal Equalization Fund is less than the total amount of state aid for all municipalities as required by the allocation formula in subsection (2) of this section, the money in the fund shall be allocated on a prorated basis to such municipalities. If the amount of money in the fund is more than the total amount of state aid for municipalities as required by the allocation formula, ~~(a) one million six thousand dollars of the excess money in the fund for fiscal year 2002-03 shall be distributed along with and in the same manner as provided in section 77-27,137.01 and the remainder shall be credited to the General Fund and~~ ~~(b) the excess money in the fund Municipal Equalization Fund that is in excess of three hundred thousand dollars for all other fiscal years shall be credited to the General Fund, and the first three hundred thousand dollars shall be distributed in the same manner as provided in section 77-27,137.01 to municipalities that have not adopted a local option sales tax by January 1 of the fiscal year for which the fund is distributed.~~

Sec. 5. Section 81-15,147, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,147 Sections 81-15,147 to ~~81-15,158~~ 81-15,157 shall be known and may be cited as the Wastewater Treatment Facilities Construction Assistance Act.

Sec. 6. Section 83-380, Revised Statutes Cumulative Supplement, 2010, is amended to read:

83-380 Within thirty days after June 30, 1971, and each year thereafter, the department shall certify to the Director of Administrative Services all amounts not previously certified due to each state institution from the several counties having patients chargeable thereto. The Director of Administrative Services shall thereupon notify the county clerk of each county of the amount each county owes. The county board shall add to its next levy an amount sufficient to raise the amount certified as due. The county shall pay the amount certified into the state treasury on or before the next June 1 following such certification.

~~From any county which fails to pay the total amount certified as due annually by the next June 1 following certification, there shall be withheld by the State Treasurer from the next allocation to such county due under the provisions of section 77-27,137.03 an amount sufficient to equal the amount unpaid from such county which amount shall be deducted from the county's portion and not the municipalities' under section 77-27,137.01. The State Treasurer shall credit the amount withheld the same as if the county had paid it when due as above provided.~~

Sec. 7. This act becomes operative on July 1, 2011.

Sec. 8. Original sections 77-3,119, 77-27,139.02, 77-27,139.03, and 81-15,147, Reissue Revised Statutes of Nebraska, and sections 13-518 and 83-380, Revised Statutes Cumulative Supplement, 2010, are repealed.

Sec. 9. The following sections are outright repealed: Sections 71-5326, 77-27,136, 77-27,137.01, 77-27,137.03, and 77-27,139, Reissue Revised Statutes of Nebraska, and sections 77-27,137.02 and 81-15,158, Revised Statutes Cumulative Supplement, 2010.

Sec. 10. Since an emergency exists, this act takes effect when passed and approved according to law.