

ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016
COMMITTEE STATEMENT
LB959

Hearing Date: Tuesday February 09, 2016
Committee On: Education
Introducer: Sullivan
One Liner: Change and eliminate provisions relating to school funding, budgets, and levy authority

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	5	Senators Baker, Groene, Krist, Schnoor, Sullivan
Nay:	1	Senator Kolowski
Absent:		
Present Not Voting:	2	Senators Pansing Brooks, Morfeld

Verbal Testimony:

Proponents:

Senator Kate Sullivan
Pete Ricketts
Glade Smith
Matt Litt
Rod Hollman
Shane Greckel
Barb Cooksley
Robin Bartlett
Mary Lou Block
Dale Gronewold
David Grimes
Roger Brandt

Representing:

Introducer
Nebraska Governor
self
Americans for Prosperity - Nebraska
self
self
Nebraska Cattlemen
self
self
self
Nebraska Farm Bureau Federation
self

Opponents:

Mike Lucas

Virginia Moon
Henry Eggert
Linda Richards

Representing:

Schools Taking Action for Nebraska Children's Education and York Public Schools
Nebraska Council of School Administrators
Thedford Public Schools
Nebraska Association of School Boards and Ralston Board of Education
Wynot Public Schools
Nebraska Rural Community Schools Association
Open Sky Policy Institute
Nebraska State Education Association
self
Greater Nebraska Schools Association
Hastings Public Schools
Greater Nebraska Schools Association and Grand Island Public Schools

Connie Duncan
Sandra Rosenboom
Terry Haack
Connie Knoche
Paul Illich
Liz Standish
Danell Simons
Ken Fossen
Paul Grieger

Lincoln Public Schools Board of Education
Crete Public Schools
Bennington Public Schools
Omaha Public Schools
Southeast Community College
Lincoln Public Schools
South Sioux City Community Schools
Millard Public Schools
self

Neutral:

Representing:

Summary of purpose and/or changes:

Legislative Bill 959 proposes to modify levy limit exceptions, budget lid exclusions, and the growth in formula needs. The alternate restricted fund calculation for educational service units (ESU's) would be modified, and voter approval would be required to use property tax funds to pay revenue bonds issued by community colleges after the effective date of the act.

Provisions limiting changes in the formula needs used to calculate state aid pursuant to the Tax Equity and Educational Opportunities Support Act (TEEOSA) would be modified. The calculation of budget authority for school districts would be simplified and exclusions would be modified. Limits would be placed on the growth in budgeted reserves and on the amount of unused budget authority that could be carried forward.

Also for school districts, the levy limit for the special building fund within the general \$1.05 levy limit would be decreased, and new Qualified Capital Purposes Undertaking Fund (QCPUF) bonds outside of the levy limits with voter approval would no longer be authorized.

Analysis by Section

Section 13-519 would be amended to reduce the alternative lid calculation for ESUs. ESU's are the same general restricted funds lids as other political subdivisions, except school districts. An alternative calculation applicable only to ESU's allows for a potentially higher lid equal to 110% of the formula need for the ESU. The proposal would reduce that calculation to 105% of the formula need. The change would apply to fiscal years beginning after the effective date of the act.

Section 79-1007.11 would be amended to modify what is commonly referred to as "need stabilization" in the TEEOSA formula. If the need calculated for a local system is outside the range of 100% to 112% of the prior year need, the calculated need will be raised or lowered to fit within the range, except the upper limit does not apply if there is a student growth adjustment. The proposal would replace the range with 98% to 105%, and would replace the student growth exception by adding the amount of any student growth adjustment to the 105%. The change would apply beginning with the 2017-18 school fiscal year.

Section 79-1022.02 would be amended to nullify any certification of budget authority for 2016-17 completed prior to the effective date of the act.

Section 79-1023 would be amended by replacing the current budget lid calculation methods for school districts. The proposed budget authority calculation would equal the prior year budget authority increased by the basic allowable growth rate (currently 2.5%) plus any student growth adjustment. Currently, budget authority is the greater of the prior year budget increased by the basic allowable growth rate, the prior year budget increased by the student growth adjustment, or 110% of formula need.

Special education and other exclusions would continue to be outside of the budget lid calculations, except that the

current exclusions for employer contributions to retirement would be moved into the calculation and under the lid. The retirement exclusions as of September 20, 2015, would be included in the 2015-16 lidded budget for the purpose of calculating 2016-17 budget authority.

The changes would apply beginning with the 2016-17 school fiscal year. The certification deadline for 2016-17 budget authority would be April 29th.

Section 79-1027 would be amended to limit increases in total reserves to 5% of the general fund budget each year. The current applicable allowable reserve percentages would continue to limit the total combined reserves. The changes would apply beginning with the 2016-17 school fiscal year.

Section 79-1028.01 would be amended by removing budget limit exclusions for increases in employer contributions to retirement systems beginning with 2016-17. The amount of the 2015-16 exclusions would be included in the calculation of budget authority for 2016-17 pursuant to the changes proposed for section 79-1023. For early terminations, the State Board would be required to include in the exclusion approval a reduction in future budget authority equal to 10% of the exclusion for each of the 5 years for which cost savings were demonstrated.

The exceptions for support grants, first year participation in Network Nebraska, and an additional 2% for 2013-14 with a super majority vote of the school board are obsolete and would be deleted. The exclusion for judgements would be clarified to recognize self-insurance funds as equivalent to liability insurance coverage.

Section 79-1030 would be amended by limiting the amount of unused budget authority that may be carried forward to 5%. References to budget limit exclusions would be simplified, and the proposed changes would be recognized for the treatment of employer retirement contributions. The current 2% limit on accessing unused budget authority would continue. The changes would apply beginning with 2016-17.

Section 79-10,110 would be amended to end the ability for school boards to issue new bonds pursuant to the section, often referred to as Qualified Purpose Undertaking Fund (QCPUF) bonds. The bonds are currently authorized for environmental hazards, accessibility barriers, life safety code violations, indoor air quality, and mold abatement and prevention. Federal qualified zone academy bonds and federal American Recovery and Reinvestment Act bonds are also authorized pursuant to the section, but no new bonds are being funded pursuant to federal law. Approval by the voters is not required for levies pursuant to the section and the levies are outside of the \$1.05 levy limit, but the combined levies for the bonds cannot exceed \$0.052. The changes would take effect on the effective date of the measure.

Section 79-10,110.01 would be amended to limit the application of the section to bonds issued prior to the effective date of the act. The section provides details regarding refunding bonds for bond issued pursuant to section 79-10,110.

Section 79-10,120 would be amended by reducing the special building fund levy limit from \$0.14 to \$0.10. The special building fund levy also is under the general \$1.05 levy limit.

Section 79-10,126 would be amended to harmonize with the reduction of the special building fund levy limit proposed in section 79-10,120.

Section 85-1517 would be amended to require voter approval for community colleges to use their \$0.02 capital levy authority to pay off revenue bonds issued after the effective date of the act.

The measure contains an Emergency Clause, which would make most of the provisions effective for 2016-17, with the exception of the changes to the calculation of state aid proposed in section 79-1007.11.

Explanation of amendments:

The Committee Amendment replaces the original provisions. Beginning with state aid calculated pursuant to the Tax

Equity and Educational Opportunities Support Act (TEEOSA) for the 2017-18 school fiscal year, the minimum levy adjustment would be eliminated and the averaging adjustment would be calculated at the maximum amount regardless of the district's levy. In addition, the amendment would limit the existing provisions for Qualified Capital Project Undertaking Fund (QCPUF) to projects approved prior to the effective date of the act. A new section would allow new projects related to life safety, environmental hazards, accessibility barriers, and mold in existing school buildings and grounds to be funded under a lower \$0.03 levy. Current projects would not be affected by the change.

The minimum levy adjustment currently decreases both the equalization aid and the allocated income taxes distributed to school districts that have levies below \$0.95. The averaging adjustment provides additional formula need for school districts with at least 900 students if the formula need per student for the district is less than the average formula need per student for all districts with at least 900 students. The amount of the averaging adjustment equals a percent of the difference based on the district levy. The maximum percent is 90% for districts with levies of at least \$1.04, and at the lowest qualifying levy of \$1.00, the percent is 50%. The amendment would calculate the adjustment at 90% for all qualifying districts.

The current QCPUF provisions allow school districts to levy up to \$0.052 cents outside of the \$1.05 levy without a vote of the public to address actual or potential environmental hazards, accessibility barriers, life safety code violations, indoor air quality, and mold within both existing school buildings and new construction. The provisions also include authorization for levies for federal American Recovery and Reinvestment Act bonds and Qualified Zone Academy bonds, neither of which are currently being funded for new bonds. The Amendment would not affect projects that have been authorized under the current provisions prior to the effective date of the Act. The new provisions would allow new projects to the extent that the levy does not exceed \$0.03 when combined with levies under the current provisions. The new projects could be for the abatement of life safety code violations, life safety hazards, environmental hazards, accessibility barriers, and mold in existing school buildings and school grounds. An emergency clause would give these changes an immediate effect.

Minimum Levy Adjustment

Section 79-1003 would be amended to harmonize the definition of allocated income tax funds with the sun-setting of the minimum levy adjustment at the conclusion of the 2016-17 school fiscal year.

Section 79-1005.01 would be amended to harmonize provisions which reduce allocated income tax funds due to minimum levy adjustments with the sun-setting of the minimum levy adjustment at the conclusion of the 2016-17 school fiscal year.

Section 79-1008.01 would be amended to harmonize provisions which reduce equalization aid due to minimum levy adjustments with the sun-setting of the minimum levy adjustment at the conclusion of the 2016-17 school fiscal year. Provisions that only applied to the 2010-11 school fiscal year would also be eliminated.

Section 79-1008.02 would be amended to limit the calculation of the minimum levy adjustment to school fiscal years prior to 2017-18.

Section 79-1017.01 would be amended to harmonize provisions which add minimum levy adjustments to formula resources with the sun-setting of the minimum levy adjustment at the conclusion of the 2016-17 school fiscal year.

Averaging Adjustment

Section 79-1007.18 would be amended to remove the levy criteria from the averaging calculation beginning with the 2017-18 school fiscal year. The averaging adjustment currently equals the average basic funding per student for all districts with 900 or more formula students (calculated in the aggregate) minus the individual district's basic funding per student with the difference multiplied by a specified percent based on the district's general fund levy. The percentages range from a high of 90% for levies of at least \$1.04 down to 50% for the lowest qualifying levy of \$1.00. With the proposed changes, the percentage would be 90% for all qualifying districts. Language that is currently obsolete would

also be eliminated.

QCPUF

Section 77-3442 would be amended to assure that amounts levied in compliance with new and existing provisions for qualified capital purposes would not be included under the levy limitations for school districts. In addition, technical changes to the statute would include removing language that expired at the end of the 2012-13 fiscal year for community colleges and assuring that the effective date for provisions regarding rural and suburban fire protection districts would not change with the passage of a new version of the section.

Section 79-1075 would be amended to include the new qualified purposes section in the list of sections providing authority for school districts to levy a tax.

Section 79-10,110 would be amended to end the ability for school boards to issue new bonds pursuant to the section, often referred to as Qualified Purpose Undertaking Fund (QCPUF) bonds. The bonds are currently authorized for environmental hazards, accessibility barriers, life safety code violations, indoor air quality, and mold abatement and prevention. Federal qualified zone academy bonds and federal American Recovery and Reinvestment Act bonds are also authorized pursuant to the section, but no new bonds are being funded pursuant to federal law. Approval by the voters is not required for levies pursuant to the section and the levies are outside of the \$1.05 levy limit, but the combined levies for the bonds cannot exceed \$0.052. The changes would take effect on the effective date of the measure.

Section 79-10,110.01 would be amended to also allow bonds issued pursuant to the new provisions in New Section 11 to be eligible for the refunding provisions that currently apply to QCPUF bonds.

New Section 11 would provide for modified Qualified Purpose Undertaking Fund provisions for new projects. School district would make a determination that an additional property tax levy is necessary for a specific abatement project to address an actual or potential environmental hazard, accessibility barrier, life safety code violation, life safety hazard, or mold in existing school buildings or school grounds of existing school buildings if the need for the project was not known to exist prior to the effective date of the act and could not have been reasonably foreseen or prevented. The determination could not be made for abatement projects related to the acquisition of new property, the construction of a new building, the expansion of an existing building, or the remodeling of an existing building for purposes other than the abatement of environmental hazards, accessibility barriers, life safety code violations, life safety hazards, or mold. The levy would be limited to a maximum of 10 years and, when combined with all other levies pursuant to the new section and section 79-10,110 could not exceed \$0.03 per \$100.00 of taxable valuation. Nothing in the section would affect levies pursuant to section 79-10,110.

Abatement would be defined to include any related inspection and testing, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, eliminate, or remove the issue causing the need for abatement, any related restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate the issue causing the need for abatement in existing school buildings or on the school grounds of existing school buildings.

Accessibility barrier would mean anything which impedes entry into, exit from, or use of any building or facility by all people.

Environmental hazard would be defined as any contamination of the air, water, or land surface or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation.

School boards would be authorized to borrow money, establish a sinking fund, and issue bonds and other evidences of indebtedness secured by and payable from an irrevocable pledge by the district. Bonds and other evidences of indebtedness would not constitute a general obligation of the district or be payable from any portion of the general fund

levy. The total principal amount of bonds could not exceed the total amount specified in the itemized estimate.

Districts would be allowed to exceed \$0.03 in any year in which:

- i. The taxable valuation of the district is lower than the taxable valuation in the year the district last issued bonds pursuant to this section; and
- ii. The maximum levy is insufficient to meet the combined annual principal and interest obligations for all bonds issued pursuant to this section and section 79-10,110.

The amount generated from a district's levy in excess of \$0.03 could not exceed the combined annual principal and interest obligations minus the amount generated by levying \$0.03.

Emergency Clause

The amendment contains an Emergency Clause, which would make the QCPUF changes effective immediately upon signing. The elimination of the minimum levy and levy criteria in the averaging adjustment would not change state aid until 2017-18, but the levies could be reduced for 2016-17 without negatively impacting a school district's aid.

Kate Sullivan, Chairperson