

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 362 CORRECTED**

Introduced by Raikes, 25

Read first time January 12, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend  
2 section 77-3446, Reissue Revised Statutes of Nebraska,  
3 sections 13-520 and 84-304, Revised Statutes Cumulative  
4 Supplement, 2006, and section 79-1028, Revised Statutes  
5 Cumulative Supplement, 2006, as affected by Referendum  
6 2006, No. 422; to change budget limitation provisions; to  
7 require audits of joint entities; to provide an operative  
8 date; to repeal the original sections; and to declare an  
9 emergency.  
10 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 13-520, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           13-520 The limitations in section 13-519 shall not apply  
4 to (1) restricted funds budgeted for capital improvements, (2)  
5 restricted funds expended from a qualified sinking fund for  
6 acquisition or replacement of tangible personal property with a  
7 useful life of five years or more, (3) restricted funds pledged  
8 to retire bonded indebtedness, used by a public airport to retire  
9 interest-free loans from the Department of Aeronautics in lieu of  
10 bonded indebtedness at a lower cost to the public airport, or used  
11 to pay other financial instruments that are approved and agreed to  
12 before July 1, 1999, in the same manner as bonds by a governing  
13 body created under section 35-501, (4) ~~restricted funds budgeted~~  
14 ~~in support of a service which is the subject of an agreement~~  
15 ~~or a modification of an existing agreement whether operated by~~  
16 ~~one of the parties to the agreement or by an independent joint~~  
17 ~~entity or joint public agency,~~ (5) restricted funds budgeted to  
18 pay for repairs to infrastructure damaged by a natural disaster  
19 which is declared a disaster emergency pursuant to the Emergency  
20 Management Act, ~~(6)~~ (5) restricted funds budgeted to pay for  
21 judgments, except judgments or orders from the Commission of  
22 Industrial Relations, obtained against a governmental unit which  
23 require or obligate a governmental unit to pay such judgment,  
24 to the extent such judgment is not paid by liability insurance  
25 coverage of a governmental unit, or ~~(7)~~ (6) the dollar amount by

1 which restricted funds budgeted by a natural resources district  
2 to administer and implement ground water management activities and  
3 integrated management activities under the Nebraska Ground Water  
4 Management and Protection Act exceed its restricted funds budgeted  
5 to administer and implement ground water management activities and  
6 integrated management activities for FY2003-04.

7           Sec. 2. Section 77-3446, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           77-3446 Base limitation means the budget limitation rate  
10 applicable to school districts and the limitation on growth of  
11 restricted funds applicable to other political subdivisions prior  
12 to any increases in the rate as a result of special actions  
13 taken by a supermajority of any governing board or of any  
14 exception allowed by law. The base limitation is two and one-half  
15 percent until adjusted, except that the base limitation for ~~school~~  
16 ~~districts for school fiscal years 2003-04 and 2004-05 is zero.~~  
17 fiscal years 2007-08 and 2008-09 is two and three-quarters percent.

18 The base limitation may be adjusted annually by the Legislature  
19 to reflect changes in the prices of services and products used by  
20 school districts and political subdivisions.

21           Sec. 3. Section 79-1028, Revised Statutes Cumulative  
22 Supplement, 2006, as affected by Referendum 2006, No. 422, is  
23 amended to read:

24           79-1028 (1) A Class II, III, IV, V, or VI school  
25 district may exceed its applicable allowable growth rate for (a)

1 expenditures in support of a service which is the subject of  
2 an agreement or a modification of an existing agreement whether  
3 operated by one of the parties to the agreement or an independent  
4 joint entity or joint public agency, ~~(b)~~ expenditures to pay for  
5 repairs to infrastructure damaged by a natural disaster which is  
6 declared a disaster emergency pursuant to the Emergency Management  
7 Act, ~~(e)~~ (b) expenditures to pay for judgments, except judgments  
8 or orders from the Commission of Industrial Relations, obtained  
9 against a school district which require or obligate a school  
10 district to pay such judgment, to the extent such judgment is not  
11 paid by liability insurance coverage of a school district, ~~(d)~~  
12 (c) expenditures to pay for sums agreed to be paid by a school  
13 district to certificated employees in exchange for a voluntary  
14 termination of employment, or ~~(e)~~ (d) expenditures to pay for  
15 lease-purchase contracts approved on or after July 1, 1997, and  
16 before July 1, 1998, to the extent the lease payments were not  
17 budgeted expenditures for fiscal year 1997-98.

18 (2) A Class II, III, IV, V, or VI district may exceed its  
19 applicable allowable growth rate by a specific dollar amount if the  
20 district projects an increase in formula students in the district  
21 over the current school year greater than twenty-five students  
22 or greater than those listed in the schedule provided in this  
23 subsection, whichever is less. Districts shall project increases  
24 in formula students on forms prescribed by the department. The  
25 department shall approve, deny, or modify the projected increases.

1	Average daily	Projected increase
2	membership of	of formula students
3	district	by percentage
4	0 - 50	10
5	50.01 - 250	5
6	250.01 - 1,000	3
7	1,000.01 and over	1

8           The department shall compute the district's estimated  
9 allowable budget per pupil using the budgeted general fund  
10 expenditures found on the budget statement for the current school  
11 year divided by the number of formula students in the current  
12 school year and multiplied by the district's applicable allowable  
13 growth rate. The resulting allowable budget per pupil shall be  
14 multiplied by the projected formula students to arrive at the  
15 estimated budget needs for the ensuing year. The department  
16 shall allow the district to increase its general fund budget  
17 of expenditures for the ensuing school year by the amount  
18 necessary to fund the estimated budget needs of the district  
19 as computed pursuant to this subsection. On or before July  
20 1, the department shall make available to districts which have  
21 been allowed additional growth pursuant to this subsection the  
22 necessary document to recalculate the actual formula students of  
23 such district. Such document shall be filed with the department  
24 under subsection (1) of section 79-1024.

1           (3) A Class II, III, IV, V, or VI district may exceed  
2 its applicable allowable growth rate by a specific dollar amount  
3 if construction, expansion, or alteration of district buildings  
4 will cause an increase in building operation and maintenance  
5 costs of at least five percent. The department shall document  
6 the projected increase in building operation and maintenance costs  
7 and may allow a Class II, III, IV, V, or VI district to exceed  
8 its applicable allowable growth rate by the amount necessary to  
9 fund such increased costs. The department shall compute the actual  
10 increased costs for the school year and shall notify the district  
11 on or before July 1 of the recovery of the additional growth  
12 pursuant to this subsection.

13           (4) A Class II, III, IV, V, or VI district may exceed its  
14 applicable allowable growth rate by a specific dollar amount if the  
15 district demonstrates to the satisfaction of the department that  
16 it will exceed its applicable allowable growth rate as a result  
17 of costs pursuant to the Retirement Incentive Plan authorized  
18 in section 79-855 or the Staff Development Assistance authorized  
19 in section 79-856. The department shall compute the amount by  
20 which the increased cost of such program or programs exceeds the  
21 district's applicable allowable growth rate and shall allow the  
22 district to increase its general fund expenditures by such amount  
23 for that fiscal year.

24           (5) A Class II, III, IV, or V district may exceed its  
25 applicable allowable growth rate by the specific dollar amount of

1 incentive payments or base fiscal year incentive payments to be  
2 received in such school fiscal year pursuant to section 79-1011.

3 (6) A Class II, III, IV, V, or VI district may exceed  
4 its applicable allowable growth rate by a specific dollar amount  
5 in any year for which the state aid calculation for the local  
6 system includes students in the qualified early childhood education  
7 fall membership of the district for the first time or for a year  
8 in which an early childhood education program of the district is  
9 receiving an expansion grant. The department shall compute the  
10 amount by which the district may exceed the district's applicable  
11 allowable growth rate by multiplying the cost grouping cost  
12 per student for the applicable cost grouping by the district's  
13 adjusted formula students attributed to early childhood education  
14 programs if students are included in the district's qualified  
15 early childhood education fall membership for the first time or by  
16 the district's adjusted formula students attributed to such early  
17 childhood education programs minus the district's adjusted formula  
18 students attributed to such early childhood education programs for  
19 the prior school fiscal year if a program is receiving an expansion  
20 grant in the school fiscal year for which the fall membership is  
21 measured. The department shall allow the district to increase its  
22 general fund expenditures by such amount for such school fiscal  
23 year.

24 (7) For school fiscal year 2005-06, a Class II, III, IV,  
25 V, or VI district may exceed its applicable allowable growth rate

1 by a specific dollar amount not to exceed seventy-four hundredths  
2 percent of the amount budgeted for employee salaries for such  
3 school fiscal year. For school fiscal year 2006-07, a Class II,  
4 III, IV, V, or VI district may exceed its applicable allowable  
5 growth rate by a specific dollar amount not to exceed fifty-nine  
6 hundredths percent of the amount budgeted for employee salaries for  
7 such school fiscal year.

8 (8) A Class II, III, IV, or V district that is a  
9 member of a learning community may exceed its applicable allowable  
10 growth rate for the first school fiscal year in which the school  
11 district will be a member of a learning community for the full  
12 school fiscal year by an amount equal to anticipated increases in  
13 transportation expenditures necessary to meet the requirements of  
14 subsection (2) of section 79-611 as approved by the department. The  
15 department shall approve, deny, or modify the amount allowed  
16 for anticipated increases in transportation expenditures. The  
17 department shall compute the actual increase in transportation  
18 expenditures necessary to meet the requirements of subsection (2)  
19 of section 79-611 for such school fiscal year and shall, if needed,  
20 modify the district's applicable allowable growth rate for the  
21 ensuing school fiscal year.

22 (9) For school fiscal year 2008-09, a Class II, III,  
23 IV, or V district may exceed its applicable allowable growth  
24 rate by a specific dollar amount if the sum of the poverty  
25 allowance, elementary class size allowance, focus school and



1 program allowance, and limited English proficiency allowance for  
2 the school district for school fiscal year 2008-09 exceeds the  
3 poverty weightings plus limited English proficiency weightings  
4 multiplied by the cost grouping cost per student for the school  
5 district for school fiscal year 2007-08. The department shall  
6 compute the amount by which the district may exceed the applicable  
7 allowable growth rate by subtracting the product of the sum of  
8 the poverty weightings and limited English proficiency weightings  
9 for school fiscal year 2007-08 multiplied by the average formula  
10 cost per student in the school district's cost grouping for school  
11 fiscal year 2007-08 from the sum of the school fiscal year 2008-09  
12 poverty allowance, elementary class size allowance, focus school  
13 and program allowance, and limited English proficiency allowance  
14 for the school district. The department shall allow the district to  
15 increase its general fund expenditures by such amount for school  
16 fiscal year 2008-09.

17 (10) For school fiscal year 2009-10 and each school  
18 fiscal year thereafter, a Class II, III, IV, or V district may  
19 exceed its applicable allowable growth rate by a specific dollar  
20 amount if the sum of the poverty allowance, elementary class size  
21 allowance, focus school and program allowance, and limited English  
22 proficiency allowance for the school district has grown at a rate  
23 higher than the applicable allowable growth rate of the district.  
24 The department shall compute the amount by which the district  
25 may exceed the applicable allowable growth rate by subtracting

1 the product of the sum of the poverty allowance, elementary class  
2 size allowance, focus school and program allowance, and limited  
3 English proficiency allowance for the immediately preceding school  
4 fiscal year multiplied by the sum of one plus the applicable  
5 allowable growth rate to be exceeded from the sum of the poverty  
6 allowance, elementary class size allowance, focus school and  
7 program allowance, and limited English proficiency allowance for  
8 the district for the school fiscal year for which the applicable  
9 allowable growth rate would be exceeded. The department shall allow  
10 the district to increase its general fund expenditures by such  
11 amount for the applicable school fiscal year.

12 (11) A Class II, III, IV, or V school district may  
13 exceed its applicable allowable growth rate by a specific dollar  
14 amount not to exceed the amount received during such school fiscal  
15 year from educational entities as defined in section 79-1332 for  
16 providing distance education courses through the Distance Education  
17 Council to such educational entities.

18 (12) A Class II, III, IV, or V school district may exceed  
19 its applicable allowable growth rate for school fiscal year 2007-08  
20 by a specific dollar amount equal to the amount paid in school  
21 fiscal year 2006-07 to any distance education consortium in which  
22 the school district was participating pursuant to an interlocal  
23 agreement.

24 Sec. 4. Section 84-304, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

1           84-304 It shall be the duty of the Auditor of Public  
2 Accounts:

3           (1) To give information in writing to the Legislature,  
4 whenever required, upon any subject relating to the fiscal affairs  
5 of the state or with regard to any duty of his or her office;

6           (2) To furnish offices for himself or herself and all  
7 fuel, lights, books, blanks, forms, paper, and stationery required  
8 for the proper discharge of the duties of his or her office;

9           (3) To examine or cause to be examined, at such time  
10 as he or she shall determine, books, accounts, vouchers, records,  
11 and expenditures of all state officers, state bureaus, state  
12 boards, state commissioners, the state library, societies and  
13 associations supported by the state, state institutions, state  
14 colleges, and the University of Nebraska, except when required to  
15 be performed by other officers or persons. Such examinations shall  
16 be done in accordance with generally accepted government auditing  
17 standards for financial audits and attestation engagements set  
18 forth in Government Auditing Standards (2003 Revision), published  
19 by the Comptroller General of the United States, General Accounting  
20 Office, and except as provided in subdivision (12) of this section,  
21 subdivision (16) of section 50-1205, and section 84-322, shall  
22 not include performance audits, whether conducted pursuant to  
23 attestation engagements or performance audit standards as set forth  
24 in Government Auditing Standards (2003 Revision), published by  
25 the Comptroller General of the United States, General Accounting

1 Office;

2 (4) (a) To examine or cause to be examined, at the expense  
3 of the political subdivision, when the Auditor of Public Accounts  
4 determines such examination necessary or when requested by the  
5 political subdivision, the books, accounts, vouchers, records,  
6 and expenditures of any agricultural association formed under  
7 Chapter 2, article 20, county agricultural society, joint airport  
8 authority formed under the Joint Airport Authorities Act, city or  
9 county airport authority, bridge commission created pursuant to  
10 section 39-868, cemetery district, development district, drainage  
11 district, health district, local public health department as  
12 defined in section 71-1626, historical society, hospital authority  
13 or district, county hospital, housing agency as defined in  
14 section 71-1575, irrigation district, county or municipal library,  
15 community mental health center, railroad transportation safety  
16 district, rural water district, township, Wyuka Cemetery, any  
17 village, any political subdivision with the authority to levy a  
18 property tax or a toll, ~~or~~ any entity created pursuant to the  
19 Joint Public Agency Act which has separately levied a property tax  
20 based on legal authority for a joint public agency to levy such a  
21 tax independent of the public agencies forming such joint public  
22 agency, or any joint entity created pursuant to the Interlocal  
23 Cooperation Act.

24 (b) The Auditor of Public Accounts may waive the  
25 audit requirement of subdivision (4) (a) of this section upon

1 the submission by the political subdivision of a written request  
2 in a form prescribed by the auditor. The auditor shall notify the  
3 political subdivision in writing of the approval or denial of the  
4 request for a waiver;

5 (5) To report promptly to the Governor and the  
6 appropriate standing committee of the Legislature the fiscal  
7 condition shown by such examinations conducted by the auditor,  
8 including any irregularities or misconduct of officers or  
9 employees, any misappropriation or misuse of public funds or  
10 property, and any improper system or method of bookkeeping or  
11 condition of accounts. In addition, if, in the normal course of  
12 conducting an audit in accordance with subdivision (3) of this  
13 section, the auditor discovers any potential problems related to  
14 the effectiveness, efficiency, or performance of state programs, he  
15 or she shall immediately report them in writing to the Legislative  
16 Performance Audit Committee which may investigate the issue  
17 further, report it to the appropriate standing committee of the  
18 Legislature, or both;

19 (6)(a) To examine or cause to be examined the books,  
20 accounts, vouchers, records, and expenditures of a fire protection  
21 district. The expense of the examination shall be paid by the  
22 political subdivision.

23 (b) Whenever the expenditures of a fire protection  
24 district are one hundred fifty thousand dollars or less per  
25 fiscal year, the fire protection district shall be audited no more

1 than once every five years except as directed by the board of  
2 directors of the fire protection district or unless the auditor  
3 receives a verifiable report from a third party indicating any  
4 irregularities or misconduct of officers or employees of the fire  
5 protection district, any misappropriation or misuse of public funds  
6 or property, or any improper system or method of bookkeeping or  
7 condition of accounts of the fire protection district. In the  
8 absence of such a report, the auditor may waive the five-year  
9 audit requirement upon the submission of a written request by the  
10 fire protection district in a form prescribed by the auditor. The  
11 auditor shall notify the fire protection district in writing of  
12 the approval or denial of a request for waiver of the five-year  
13 audit requirement. Upon approval of the request for waiver of the  
14 five-year audit requirement, a new five-year audit period shall  
15 begin.

16 (c) Whenever the expenditures of a fire protection  
17 district exceed one hundred fifty thousand dollars in a fiscal  
18 year, the auditor may waive the audit requirement upon the  
19 submission of a written request by the fire protection district  
20 in a form prescribed by the auditor. The auditor shall notify the  
21 fire protection district in writing of the approval or denial of a  
22 request for waiver. Upon approval of the request for waiver, a new  
23 five-year audit period shall begin for the fire protection district  
24 if its expenditures are one hundred fifty thousand dollars or less  
25 per fiscal year in subsequent years;

1           (7) To appoint two assistant deputies (a) whose entire  
2 time shall be devoted to the service of the state as directed by  
3 the auditor, (b) who shall be certified public accountants with at  
4 least five years' experience, (c) who shall be selected without  
5 regard to party affiliation or to place of residence at the time  
6 of appointment, (d) who shall promptly report in duplicate to the  
7 auditor the fiscal condition shown by each examination, including  
8 any irregularities or misconduct of officers or employees, any  
9 misappropriation or misuse of public funds or property, and any  
10 improper system or method of bookkeeping or condition of accounts,  
11 and it shall be the duty of the auditor to file promptly with the  
12 Governor a duplicate of such report, and (e) who shall qualify by  
13 taking an oath which shall be filed in the office of the Secretary  
14 of State;

15           (8) To conduct audits and related activities for state  
16 agencies, political subdivisions of this state, or grantees of  
17 federal funds disbursed by a receiving agency on a contractual  
18 or other basis for reimbursement to assure proper accounting by  
19 all such agencies, political subdivisions, and grantees for funds  
20 appropriated by the Legislature and federal funds disbursed by  
21 any receiving agency. The auditor may contract with any political  
22 subdivision to perform the audit of such political subdivision  
23 required by or provided for in section 23-1608 or 79-1229 or this  
24 section and charge the political subdivision for conducting the  
25 audit. The fees charged by the auditor for conducting audits on a

1 contractual basis shall be in an amount sufficient to pay the cost  
2 of the audit. The fees remitted to the auditor for such audits and  
3 services shall be deposited in the Auditor of Public Accounts Cash  
4 Fund;

5 (9) To conduct all audits and examinations in a timely  
6 manner and in accordance with the standards for audits of  
7 governmental organizations, programs, activities, and functions  
8 published by the Comptroller General of the United States;

9 (10) To develop a plan for implementing on-line  
10 filing of budgeted and actual financial information by political  
11 subdivisions. Such plan shall describe the technology and staff  
12 resources necessary to implement on-line filing of such information  
13 and the costs of these resources. Such plan shall be presented to  
14 the Clerk of the Legislature on or before January 15, 2003;

15 (11) To develop and maintain an annual budget and actual  
16 financial information reporting system that is accessible on-line  
17 by the public; and

18 (12) When authorized, to conduct joint audits with the  
19 Legislative Performance Audit Committee as described in section  
20 50-1205.

21 Sec. 5. This act becomes operative on July 1, 2007.

22 Sec. 6. Original section 77-3446, Reissue Revised  
23 Statutes of Nebraska, sections 13-520 and 84-304, Revised Statutes  
24 Cumulative Supplement, 2006, and section 79-1028, Revised Statutes  
25 Cumulative Supplement, 2006, as affected by Referendum 2006, No.



LB 362 CORRECTED

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1 422, are repealed.

2                   Sec. 7. Since an emergency exists, this act takes effect

3 when passed and approved according to law.