

AMENDMENTS TO LB 545

(Amendments to E & R amendments, ER8108)

Introduced by Adams, 24.

1           1. Strike section 23 and insert the following new  
2 section:

3           Sec. 23. Section 79-10,110, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           79-10,110 (1) After making a determination that an actual  
6 or potential environmental hazard or accessibility barrier exists,  
7 that a life safety code violation exists, or that expenditures  
8 are needed for indoor air quality or mold abatement and prevention  
9 within the school buildings or grounds under its control, a school  
10 board may make and deliver to the county clerk of such county  
11 in which any part of the school district is situated, not later  
12 than the date provided in section 13-508, an itemized estimate of  
13 the amounts necessary to be expended for the abatement of such  
14 environmental hazard, for accessibility barrier elimination, or for  
15 modifications for life safety code violations, indoor air quality,  
16 or mold abatement and prevention in such school buildings or  
17 grounds. The board shall conduct a public hearing on the itemized  
18 estimate prior to presenting such estimate to the county clerk.  
19 Notice of the place and time of such hearing shall, at least five  
20 days prior to the date set for hearing, be published in a newspaper  
21 of general circulation within the school district. The board shall  
22 designate the particular environmental hazard abatement project,

1 accessibility barrier elimination project, or modification for life  
2 safety code violations, indoor air quality, or mold abatement and  
3 prevention for which the tax levy provided for by this section will  
4 be expended, the period of years, which shall not exceed ten years,  
5 for which the tax will be levied for such project, and the amount  
6 of the levy for each year of the period.

7 (2) After a public hearing, a school board may undertake  
8 any qualified capital purpose in any qualified zone academy under  
9 its control and may levy a tax as provided in this section to  
10 repay a qualified zone academy bond issued for such undertaking.  
11 The board shall designate: (a) The ~~the~~ particular qualified capital  
12 purpose for which the qualified zone academy bond was issued and  
13 for which the tax levy provided for by this section will be  
14 expended; (b) ~~the period of years, not exceeding fifteen,~~ for  
15 which the tax will be levied ~~for~~ to repay such qualified zone  
16 academy bond, not exceeding the maximum term for such qualified  
17 zone academy bond established pursuant to federal law or, for any  
18 such bond issued prior to the effective date of this act, fifteen  
19 years; and (c) the amount of the levy for each year of the period.  
20 The hearing required by this subsection shall be held only after  
21 notice of such hearing has been published for three consecutive  
22 weeks prior to the hearing in a legal newspaper published or of  
23 general circulation in the school district.

24 (3) After a public hearing, a school board may undertake  
25 construction of a new public school facility or the acquisition  
26 of land on which such a facility is to be constructed or any  
27 expansion, rehabilitation, modernization, renovation, or repair of

1 any existing school facilities under its control and may levy a  
2 tax to repay any American Recovery and Reinvestment Act of 2009  
3 bond. The board shall designate: (a) The particular project or  
4 projects for which the bond will be issued and for which the tax  
5 levy provided by this section will be expended; (b) the period of  
6 years for which the tax will be levied to repay such bond, not  
7 exceeding the maximum term established pursuant to federal law for  
8 the type of bond as permitted by the federal American Recovery and  
9 Reinvestment Act of 2009 or, if no such term is established, thirty  
10 years; and (c) the amount of the levy for each year of such period.  
11 Prior to the public hearing, the school board shall prepare an  
12 itemized estimate of the amounts necessary to be expended for the  
13 project or projects. The hearing required by the subsection shall  
14 be held only after notice of such hearing has been published for  
15 three consecutive weeks prior to the hearing in a legal newspaper  
16 published or of general circulation in the school district. The  
17 bond to be issued under this subsection may consist of any type  
18 or form of bond permitted by the federal American Recovery and  
19 Reinvestment Act of 2009 except qualified zone academy bonds, the  
20 use of which is authorized pursuant to subsection (2) of this  
21 section.

22 ~~(3)~~ (4) The board may designate more than one project  
23 under subsection (1) of this section, more than one ~~or~~ qualified  
24 capital purpose under subsection (2) of this section, or more  
25 than one American Recovery and Reinvestment Act of 2009 purpose  
26 under subsection (3) of this section and levy a tax pursuant  
27 to this section for each such project, ~~or~~ qualified capital

1 purpose, or American Recovery and Reinvestment Act of 2009 purpose,  
2 concurrently or consecutively, as the case may be, if the aggregate  
3 levy in each year and the duration of each such levy will not  
4 exceed the limitations specified in this section. Each levy for a  
5 project, a ~~ex~~ qualified capital purpose, or an American Recovery  
6 and Reinvestment Act of 2009 purpose which is authorized by this  
7 section may be imposed for such duration as the board specifies,  
8 notwithstanding the contemporaneous existence or subsequent  
9 imposition of any other levy for another project, a ~~ex~~ qualified  
10 capital purpose, or American Recovery and Reinvestment Act of 2009  
11 purpose imposed pursuant to this section and notwithstanding the  
12 subsequent issuance by the district of bonded indebtedness payable  
13 from its general fund levy.

14 ~~(4)~~ (5) The county clerk shall levy such taxes, not to  
15 exceed five and one-fifth cents per one hundred dollars of taxable  
16 valuation for Class II, III, IV, V, and VI districts, and not to  
17 exceed the limits set for Class I districts in section 79-10,124,  
18 on the taxable property of the district necessary to (a) cover the  
19 environmental hazard abatement or accessibility barrier elimination  
20 project costs or costs for modification for life safety code  
21 violations, indoor air quality, or mold abatement and prevention  
22 itemized by the board pursuant to subsection (1) of this section  
23 and (b) repay any qualified zone academy bonds or American Recovery  
24 and Reinvestment Act of 2009 bonds pursuant to subsection (2) or  
25 (3) of this section. Such taxes shall be collected by the county  
26 treasurer at the same time and in the same manner as county taxes  
27 are collected and when collected shall be paid to the treasurer of

1 the district and used to cover the project costs.

2 ~~(5)~~ (6) If such board operates grades nine through  
3 twelve as part of an affiliated school system, it shall designate  
4 the fraction of the project or undertaking to be conducted for  
5 the benefit of grades nine through twelve. Such fraction shall  
6 be raised by a levy placed upon all of the taxable value of  
7 all taxable property in the affiliated school system pursuant to  
8 subsection (2) of section 79-1075. The balance of the project or  
9 undertaking to be conducted for the benefit of grades kindergarten  
10 through eight shall be raised by a levy placed upon all of the  
11 taxable value of all taxable property in the district which is  
12 governed by such board. The combined rate for both levies in the  
13 high school district, to be determined by such board, shall not  
14 exceed five and one-fifth cents on each one hundred dollars of  
15 taxable value.

16 ~~(6)~~ (7) Each board which submits an itemized estimate  
17 shall establish an environmental hazard abatement and accessibility  
18 barrier elimination project account, a life safety code  
19 modification project account, an indoor air quality project  
20 account, or a mold abatement and prevention project account, ~~and~~  
21 each board which undertakes a qualified capital purpose shall  
22 establish a qualified capital purpose undertaking account, within  
23 the qualified capital purpose undertaking fund, and each board  
24 which undertakes an American Recovery and Reinvestment Act of 2009  
25 purpose shall establish an American Recovery and Reinvestment Act  
26 of 2009 purpose undertaking account. Taxes collected pursuant to  
27 this section shall be credited to the appropriate account to cover

1 the project or undertaking costs. Such estimates may be presented  
2 to the county clerk and taxes levied accordingly.

3 ~~(7)~~ (8) For purposes of this section:

4 (a) Abatement includes, but is not limited to, any  
5 inspection and testing regarding environmental hazards, any  
6 maintenance to reduce, lessen, put an end to, diminish, moderate,  
7 decrease, control, dispose of, or eliminate environmental hazards,  
8 any removal or encapsulation of environmentally hazardous material  
9 or property, any restoration or replacement of material or  
10 property, any related architectural and engineering services, and  
11 any other action to reduce or eliminate environmental hazards in  
12 the school buildings or on the school grounds under the board's  
13 control, except that abatement does not include the encapsulation  
14 of any material containing more than one percent friable asbestos;

15 (b) Accessibility barrier means anything which impedes  
16 entry into, exit from, or use of any building or facility by all  
17 people;

18 (c) Accessibility barrier elimination includes, but is  
19 not limited to, inspection for and removal of accessibility  
20 barriers, maintenance to reduce, lessen, put an end to, diminish,  
21 control, dispose of, or eliminate accessibility barriers, related  
22 restoration or replacement of facilities or property, any related  
23 architectural and engineering services, and any other action to  
24 eliminate accessibility barriers in the school buildings or grounds  
25 under the board's control;

26 (d) American Recovery and Reinvestment Act of 2009 bond  
27 means any type or form of bond permitted by the federal American

1 Recovery and Reinvestment Act of 2009 for use by schools, except  
2 qualified zone academy bonds;

3 (e) American Recovery and Reinvestment Act of 2009  
4 purpose means any construction of a new public school facility  
5 or the acquisition of land on which such a facility is to  
6 be constructed or any expansion, rehabilitation, modernization,  
7 renovation, or repair of any existing school facilities financed in  
8 whole or in part with an American Recovery and Reinvestment Act of  
9 2009 bond;

10 ~~(d)~~ (f) Environmental hazard means any contamination of  
11 the air, water, or land surface or subsurface caused by any  
12 substance adversely affecting human health or safety if such  
13 substance has been declared hazardous by a federal or state  
14 statute, rule, or regulation;

15 ~~(e)~~ (g) Modification for indoor air quality includes, but  
16 is not limited to, any inspection and testing regarding indoor  
17 air quality, any maintenance to reduce, lessen, put an end to,  
18 diminish, moderate, decrease, control, dispose of, or eliminate  
19 indoor air quality problems, any restoration or replacement of  
20 material or related architectural and engineering services, and any  
21 other action to reduce or eliminate indoor air quality problems  
22 or to enhance air quality conditions in new or existing school  
23 buildings or on school grounds under the control of a school board;

24 ~~(f)~~ (h) Modification for life safety code violation  
25 includes, but is not limited to, any inspection and testing  
26 regarding life safety codes, any maintenance to reduce, lessen,  
27 put an end to, diminish, moderate, decrease, control, dispose of,

1 or eliminate life safety hazards, any restoration or replacement  
2 of material or property, any related architectural and engineering  
3 services, and any other action to reduce or eliminate life safety  
4 hazards in new or existing school buildings or on school grounds  
5 under the control of a school board;

6 ~~(g)~~ (i) Modification for mold abatement and prevention  
7 includes, but is not limited to, any inspection and testing  
8 regarding mold abatement and prevention, any maintenance to reduce,  
9 lessen, put an end to, diminish, moderate, decrease, control,  
10 dispose of, or eliminate mold problems, any restoration or  
11 replacement of material or related architectural and engineering  
12 services, and any other action to reduce or eliminate mold problems  
13 or to enhance air quality conditions in new or existing school  
14 buildings or on school grounds under the control of a school board;

15 ~~(h)~~ (j) Qualified capital purpose means (i)  
16 rehabilitating or repairing the public school facility in  
17 which the qualified zone academy is established or (ii) providing  
18 equipment for use at such qualified zone academy;

19 ~~(i)~~ (k) Qualified zone academy has the meaning found in  
20 (i) 26 U.S.C. 1397E(d)(4), as such section existed on April 6,  
21 2001; October 3, 2008, for qualified zone academy bonds issued on  
22 or before such date, and (ii) 26 U.S.C. 54E(d)(1), as such section  
23 existed on October 4, 2008, for qualified zone academy bonds issued  
24 on or after such date;

25 ~~(j)~~ (l) Qualified zone academy allocation means the  
26 allocation of the qualified zone academy bond limitation by the  
27 State Department of Education to the qualified zone academies



1 pursuant to (i) 26 U.S.C. 1397E(e)(2), as such section existed  
2 on ~~April 6, 2001~~, ~~October 3, 2008~~, for allocations relating to  
3 qualified zone academy bonds issued on or before such date, and  
4 (ii) 26 U.S.C. 54E(c)(2), as such section existed on October 4,  
5 2008, for allocations relating to qualified zone academy bonds  
6 issued on or after such date; and

7 ~~(k)~~ (m) Qualified zone academy bond has the meaning found  
8 in (i) 26 U.S.C. 1397E(d)(1), as such section existed on ~~May 8,~~  
9 ~~2001~~, ~~October 3, 2008~~, for such bonds issued on or before such  
10 date, and (ii) 26 U.S.C. 54E(a), as such section existed on October  
11 4, 2008, for such bonds issued on or after such date.

12 ~~(8)~~ (9) Accessibility barrier elimination project  
13 costs includes, but is not limited to, inspection, maintenance,  
14 accounting, emergency services, consultation, or any other action  
15 to reduce or eliminate accessibility barriers.

16 ~~(9)~~ (10) For the purpose of paying amounts necessary  
17 for the abatement of environmental hazards, accessibility barrier  
18 elimination, or modifications for life safety code violations,  
19 indoor air quality, ~~or~~ mold abatement and prevention, or for an  
20 American Recovery and Reinvestment Act of 2009 purpose, the board  
21 may borrow money, establish a sinking fund, and issue bonds and  
22 other evidences of indebtedness of the district, which bonds and  
23 other evidences of indebtedness shall be secured by and payable  
24 from an irrevocable pledge by the district of amounts received in  
25 respect of the tax levy provided for by this section and any other  
26 funds of the district available therefor. Bonds and other evidences  
27 of indebtedness issued by a district pursuant to this subsection

1 shall not constitute a general obligation of the district or be  
2 payable from any portion of its general fund levy.

3 ~~(10)~~ (11) The total principal amount of bonds for  
4 modifications to correct life safety code violations, for indoor  
5 air quality problems, ~~or~~ for mold abatement and prevention, or for  
6 an American Recovery and Reinvestment Act of 2009 purpose which  
7 may be issued pursuant to this section shall not exceed the total  
8 amount specified in the itemized estimate described in ~~subsection~~  
9 ~~(1)~~ subsections (1) and (3) of this section.

10 ~~(11)~~ (12) The total principal amount of qualified zone  
11 academy bonds which may be issued pursuant to this section for  
12 qualified capital purposes with respect to a qualified zone academy  
13 shall not exceed the qualified zone academy allocation granted  
14 to the board by the department. The total amount that may be  
15 financed by qualified zone academy bonds pursuant to this section  
16 for qualified purposes with respect to a qualified zone academy  
17 shall not exceed seven and one-half million dollars statewide in a  
18 single year. In any year that the Nebraska qualified zone academy  
19 allocations exceed seven and one-half million dollars for qualified  
20 capital purposes to be financed with qualified zone academy bonds  
21 issued pursuant to this section, (a) the department shall reduce  
22 such allocations proportionally such that the statewide total for  
23 such allocations equals seven and one-half million dollars and  
24 (b) the difference between the Nebraska allocation and seven and  
25 one-half million dollars shall be available to qualified zone  
26 academies for requests that will be financed with qualified zone  
27 academy bonds issued without the benefit of this section.

1           Nothing in this section directs the State Department of  
2 Education to give any preference to allocation requests that will  
3 be financed with qualified zone academy bonds issued pursuant to  
4 this section.

5           (13) The State Department of Education shall establish  
6 procedures for allocating bond authority to school boards as may be  
7 necessary pursuant to an American Recovery and Reinvestment Act of  
8 2009 bond.

9           2. On page 36, line 25, reinstate the stricken language.

10          3. On page 37, line 1, strike "or (5)"; reinstate the  
11 stricken matter beginning with "The" in line 4 through "the" in  
12 line 8; in line 8 after the reinstated "the" insert "averaging  
13 adjustment threshold"; and in line 9 reinstate the stricken matter  
14 beginning with "minus" through the period.

15          4. On page 53, strike beginning with "Such" in line 21  
16 through the period in line 26 and insert "Such allocation shall  
17 only be distributed upon filing of an application signed by the  
18 superintendent and school board president of a school district and  
19 filed with the department by the superintendent of such school  
20 district, which application meets the requirements of the federal  
21 American Recovery and Reinvestment Act of 2009 and is approved  
22 by the Governor or his or her designee. A school district shall  
23 account for, report, and spend such allocation as required by the  
24 federal American Recovery and Reinvestment Act of 2009.