

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 308**

Introduced by Heidemann, 1.

Read first time January 15, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 13-2809, 35-508, 35-509, 35-514.02, 35-517, and 77-3443,  
3 Reissue Revised Statutes of Nebraska, and sections  
4 77-3442 and 77-3444, Revised Statutes Cumulative  
5 Supplement, 2008; to change levy provisions for rural  
6 and suburban fire protection districts; to harmonize  
7 provisions; to provide an operative date; and to repeal  
8 the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 13-2809, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           13-2809 (1) An area within the boundaries of a  
4 municipality which remains within the boundaries of a municipal  
5 county and is not consolidated into the municipal county at  
6 the time of the formation of the municipal county shall not be  
7 considered to be part of the municipal county for any purpose. Such  
8 a municipality shall not be annexed by the municipal county, and  
9 such a municipality shall not annex any territory, for at least  
10 four years after the date of creation of the municipal county. Such  
11 a municipality shall retain:

12           (a) The authority to levy property taxes, not to exceed  
13 ninety cents per one hundred dollars of taxable value except as  
14 provided in sections 77-3442 and 77-3444; and

15           (b) All the other powers and duties applicable to a  
16 municipality of the same population with the same form of  
17 government in effect on the date of creation of the municipal  
18 county, including, but not limited to, its zoning jurisdiction and  
19 the authority to impose a tax as provided in the Local Option  
20 Revenue Act.

21           (2) In order to provide economical and efficient  
22 services, a municipality within the boundaries of a municipal  
23 county may annex adjacent territory within the municipal county  
24 if the municipal county consents. Consent shall be granted if the  
25 services will be provided by the municipality within the annexed

1 territory at less cost than similar services provided by the  
2 municipal county.

3 (3) All fire protection districts ~~subject to municipal~~  
4 ~~county levy authority under section 77-3443~~ which are within the  
5 boundaries of a municipal county shall continue to exist after  
6 formation of the municipal county.

7 Sec. 2. Section 35-508, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 35-508 The board of directors shall have the following  
10 general powers:

11 (1) To determine a general fire protection and rescue  
12 program for the district;

13 (2) To make an annual estimate of the probable expense  
14 for carrying out such program;

15 (3) To annually certify such estimate to the county clerk  
16 in the manner provided by section 35-509;

17 (4) To manage and conduct the business affairs of the  
18 district;

19 (5) To make and execute contracts in the name of and on  
20 behalf of the district;

21 (6) To buy real estate when needed for the district and  
22 to sell real estate of the district when the district has no  
23 further use for it;

24 (7) To purchase or lease such firefighting and rescue  
25 equipment, supplies, and other real or personal property as

1 necessary and proper to carry out the general fire protection  
2 and rescue program of the district;

3 (8) To incur indebtedness on behalf of the district;

4 (9) To authorize the issuance of evidences of the  
5 indebtedness permitted under subdivision (8) of this section and  
6 to pledge any real or personal property owned or acquired by the  
7 district as security for the same;

8 (10) To organize, establish, equip, maintain, and  
9 supervise a paid, volunteer, or combination paid and volunteer fire  
10 department or company to serve the district and to establish a  
11 service award benefit program pursuant to the Volunteer Emergency  
12 Responders Recruitment and Retention Act;

13 (11) To employ and compensate such personnel as necessary  
14 to carry out the general fire protection and rescue program of the  
15 district;

16 (12) To authorize the execution of a contract with the  
17 Game and Parks Commission or a public power district for fire  
18 protection of property of the commission or public power district  
19 located in or adjacent to the rural or suburban fire protection  
20 district;

21 ~~(13) To levy a tax not to exceed ten and one-half cents~~  
22 ~~on each one hundred dollars in any one year upon the taxable value~~  
23 ~~of all taxable property within such district subject to section~~  
24 ~~77-3443, in addition to the amount of tax which may be annually~~  
25 ~~levied to defray the general and incidental expenses of such~~

1 district, for the purpose of establishing a sinking fund for the  
2 construction, purchase, improvement, extension, original equipment,  
3 or repair, not including maintenance, of district buildings to  
4 house equipment or personal belongings of a fire department, for  
5 the purchase of firefighting and rescue equipment or apparatus, for  
6 the acquisition of any land incidental to such purposes, or for  
7 payment of principal and interest on any evidence of indebtedness  
8 issued pursuant to subdivisions (8) and (9) of this section. For  
9 purposes of section 77-3443, the county board of the county in  
10 which the greatest portion of the valuation of the district is  
11 located shall approve the levy;

12 (13) To levy a tax not to exceed ten and one-half  
13 cents on each one hundred dollars in any one year upon the  
14 taxable valuation of property subject to the levy, in addition  
15 to the amount of tax which may be annually levied to defray  
16 the general and incidental expenses of such district, for the  
17 purpose of establishing a sinking fund for the construction,  
18 purchase, improvement, extension, original equipment, or repair,  
19 not including maintenance, of district buildings to house equipment  
20 or personal belongings of a fire department, for the purchase of  
21 firefighting and rescue equipment or apparatus, for the acquisition  
22 of any land incidental to such purposes, or for payment of  
23 principal and interest on any evidence of indebtedness issued  
24 pursuant to subdivisions (8) and (9) of this section;

25 (14) To adopt and enforce fire codes and establish

1 penalties at annual meetings, except that the code must be  
2 available prior to annual meetings and notice shall so provide; and

3 (15) Generally to perform all acts necessary to fully  
4 carry out the purposes of sections 35-501 to 35-517.

5 Sec. 3. Section 35-509, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 35-509 (1) The board of directors shall have the power  
8 and duty to determine a general fire protection and rescue policy  
9 for the district and shall annually fix the amount of money for  
10 the proposed budget statement as may be deemed sufficient and  
11 necessary in carrying out such contemplated program for the ensuing  
12 fiscal year, including the amount of principal and interest upon  
13 the indebtedness of the district for the ensuing year. After the  
14 adoption of the budget statement, the president and secretary of  
15 the district shall ~~request~~ certify the amount of tax to be levied  
16 which the district requires for the adopted budget statement for  
17 the ensuing year to the proper county ~~board~~ clerk or county clerks  
18 on or before August 1 of each year. Such board shall levy a  
19 tax not to exceed ten and one-half cents on each one hundred  
20 dollars upon the taxable value of all the taxable property in such  
21 district when the district is a rural or suburban fire protection  
22 district, for the maintenance of the fire protection district for  
23 the fiscal year as provided by law. 7 plus such levy as is  
24 authorized to be made under subdivision ~~(13)~~ of section 35-508,  
25 all such levies being subject to section 77-3443. The tax shall

1 be collected as other taxes are collected in the county, deposited  
2 with the county treasurer, and placed to the credit of the rural  
3 or suburban fire protection district so authorizing the same on  
4 or before the fifteenth day of each month or more frequently as  
5 provided in section 77-1759 or be remitted to the county treasurer  
6 of the county in which the greatest portion of the valuation of  
7 the district is located as is provided for by subsection (2) of  
8 this section. ~~For purposes of section 77-3443, the county board of~~  
9 ~~the county in which the greatest portion of the valuation of the~~  
10 ~~district is located shall approve the levy.~~

11 (2) All such taxes collected or received for the district  
12 by the treasurer of any other county than the one in which the  
13 greatest portion of the valuation of the district is located shall  
14 be remitted to the treasurer of the county in which the greatest  
15 portion of the valuation of the district is located at least  
16 quarterly. All such taxes collected or received shall be placed to  
17 the credit of such district in the treasury of the county in which  
18 the greatest portion of the valuation of the district is located.

19 (3) In no case shall the amount of tax levy exceed the  
20 amount of funds to be received from taxation according to the  
21 adopted budget statement of the district.

22 Sec. 4. Section 35-514.02, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 35-514.02 A rural or suburban fire protection district  
25 may establish an emergency medical service, including the provision

1 of scheduled or unscheduled ambulance service, or provide fire  
2 protection service either within or without the district, may  
3 enter into agreements under the Interlocal Cooperation Act and  
4 the Joint Public Agency Act for the purpose of establishing an  
5 emergency medical service or providing fire protection service,  
6 may contract with any city, person, firm, corporation, or other  
7 fire protection district to provide such services, may expend funds  
8 of the district, and may charge a reasonable fee to the user.  
9 Before any such services are established under the authority of  
10 this section, the rural or suburban fire protection district shall  
11 hold a public hearing after giving at least ten days' notice,  
12 which notice shall include a brief summary of the general plan  
13 for establishing the emergency medical service or providing fire  
14 protection service, including an estimate of the initial cost and  
15 the possible continuing cost of operating the emergency medical  
16 service or fire protection service. If the board after such hearing  
17 determines that an emergency medical service or fire protection  
18 service is needed, it may proceed as authorized in this section.  
19 The authority granted in this section shall be cumulative and  
20 supplementary to any existing powers heretofore granted. Any fire  
21 protection district providing any service under this section may  
22 pay the cost for the service out of available funds or may levy a  
23 tax for the purpose of supporting an emergency medical service or  
24 providing fire protection service, which levy shall be in addition  
25 to any other tax for such fire protection district and shall be



1 ~~subject to section 77-3443.~~ in addition to restrictions on the  
2 levy of taxes provided by statute. When a fire protection district  
3 levies a tax for the purpose of supporting an emergency medical  
4 service, the taxpayers of such district shall be exempt from any  
5 tax levied under section 13-303. The board of a fire protection  
6 district which provides fire protection service outside of the  
7 district may charge a political subdivision with which the district  
8 has entered into an agreement for such service on a per-call basis  
9 for such service.

10           Sec. 5. Section 35-517, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           35-517 (1) By July 1, 1999, the county board shall set  
13 the boundaries of all rural or suburban fire protection districts  
14 in the county so that all areas within the county which are not  
15 within the incorporated areas of cities and villages are included  
16 within a rural or suburban fire protection district.

17           (2) By July 1 of the year following the dissolution of  
18 any rural or suburban fire protection district, the county board  
19 shall set the boundaries of all remaining rural and suburban fire  
20 protection districts so that all areas within the county which  
21 are not within the incorporated areas of cities and villages are  
22 included within a rural or suburban fire protection district.

23           ~~(3) Any county may set the boundaries of all rural~~  
24 ~~and suburban fire protection districts for which the county is~~  
25 ~~responsible for allocating levy authority under section 77-3443~~

1 so that the highest levy of a rural or suburban fire protection  
2 district is no more than two times the average levy of all rural  
3 and suburban fire protection districts for which the county is  
4 responsible for allocating levy authority under section 77-3443  
5 based on the property tax request and associated valuation for the  
6 current fiscal year. For purposes of this subsection, each county  
7 shall examine the property tax request of each rural or suburban  
8 fire protection district in the county for all purposes except  
9 bonded indebtedness for the current fiscal year and lease-purchase  
10 contracts in existence on July 1, 1998, as compared to the  
11 valuation for the tax year against which the levy was imposed.  
12 If one or more fire protection districts do not meet the standard  
13 required by this subsection for the current year, boundaries may  
14 be relocated to place more valuation in the high levy districts  
15 and less in the low levy districts so that the standard is met.  
16 If any district is to be eliminated by the county to meet the  
17 standard, the property tax request for the current fiscal year  
18 will be assumed to be transferred to the other districts which are  
19 to be in the territory of the eliminated district in proportion  
20 to the valuation transferred to such districts for purposes of  
21 compliance with the standard, the district shall be deemed to be  
22 dissolved, and the obligations and assets of the district shall  
23 be disposed of as provided in section 35-521. For purposes of  
24 this subsection, the average levy of all rural and suburban fire  
25 protection districts means the total taxes levied by all rural

1 and suburban fire protection districts for which the county is  
2 responsible for allocating levy authority divided by the total  
3 taxable valuation of all such districts.

4 ~~(4)~~ (3) Before May 1 of the year in which any change  
5 in boundaries allowed or required under this section is to be  
6 effective, the county board shall forthwith designate a time  
7 and place for a hearing before the county board of such county  
8 and shall give due notice thereof in the manner prescribed by  
9 section 35-514. The hearing shall be prior to June 1. At the  
10 time and place so fixed the county board shall meet and all  
11 persons interested shall have opportunity to be heard. Thereupon,  
12 the county board shall consider the general rural fire protection  
13 policy for the county as a whole and shall determine the boundaries  
14 of the district or districts, whether as existing prior to such  
15 determination or otherwise, and shall make a written order of such  
16 determination which shall be filed in the office of the county  
17 clerk by July 1 of the year in which any change in boundaries  
18 under this section is to be effective. If all rural and suburban  
19 fire protection districts for which the county is responsible for  
20 allocating levy authority under section 77-3443 agree to a change  
21 in boundaries and submit a proposal to change boundaries to the  
22 county board prior to the hearing, the county shall adopt the  
23 proposal unless it finds that the proposal is not consistent with  
24 the fire protection policy in the county as a whole or does not  
25 result in levies which comply with the standard described in this

1 section. Thereafter, such reorganized district or districts shall  
2 be deemed to be organized and operating under sections 35-501 to  
3 35-517. Nothing herein contained shall impair, affect, or discharge  
4 any previously existing contract, obligation, lien, or charge of  
5 the district or districts.

6 Sec. 6. Section 77-3442, Revised Statutes Cumulative  
7 Supplement, 2008, is amended to read:

8 77-3442 (1) Property tax levies for the support of local  
9 governments for fiscal years beginning on or after July 1, 1998,  
10 shall be limited to the amounts set forth in this section except as  
11 provided in section 77-3444.

12 (2) (a) Except as provided in subdivision (2) (e) of this  
13 section, school districts and multiple-district school systems,  
14 except learning communities and school districts that are members  
15 of learning communities, may levy a maximum levy of one dollar and  
16 five cents per one hundred dollars of taxable valuation of property  
17 subject to the levy.

18 (b) For each fiscal year, learning communities may levy  
19 a maximum levy for the general fund budgets of member school  
20 districts of ninety-five cents per one hundred dollars of taxable  
21 valuation of property subject to the levy. The proceeds from the  
22 levy pursuant to this subdivision shall be distributed pursuant to  
23 section 79-1073.

24 (c) Except as provided in subdivision (2) (e) of this  
25 section, for each fiscal year, school districts that are members

1 of learning communities may levy for purposes of such districts'  
2 general fund budget and special building funds a maximum combined  
3 levy of the difference of one dollar and five cents on each one  
4 hundred dollars of taxable property subject to the levy minus  
5 the learning community levies pursuant to subdivisions (2)(b) and  
6 (2)(g) of this section for such learning community.

7 (d) Excluded from the limitations in subdivisions (2)(a)  
8 and (2)(c) of this section are amounts levied to pay for  
9 sums agreed to be paid by a school district to certificated  
10 employees in exchange for a voluntary termination of employment  
11 and amounts levied to pay for special building funds and sinking  
12 funds established for projects commenced prior to April 1, 1996,  
13 for construction, expansion, or alteration of school district  
14 buildings. For purposes of this subsection, commenced means any  
15 action taken by the school board on the record which commits  
16 the board to expend district funds in planning, constructing, or  
17 carrying out the project.

18 (e) Federal aid school districts may exceed the maximum  
19 levy prescribed by subdivision (2)(a) or (2)(c) of this section  
20 only to the extent necessary to qualify to receive federal aid  
21 pursuant to Title VIII of Public Law 103-382, as such title existed  
22 on September 1, 2001. For purposes of this subdivision, federal  
23 aid school district means any school district which receives ten  
24 percent or more of the revenue for its general fund budget from  
25 federal government sources pursuant to Title VIII of Public Law

1 103-382, as such title existed on September 1, 2001.

2 (f) For school fiscal year 2002-03 through school fiscal  
3 year 2007-08, school districts and multiple-district school systems  
4 may, upon a three-fourths majority vote of the school board of  
5 the school district, the board of the unified system, or the  
6 school board of the high school district of the multiple-district  
7 school system that is not a unified system, exceed the maximum  
8 levy prescribed by subdivision (2)(a) of this section in an amount  
9 equal to the net difference between the amount of state aid that  
10 would have been provided under the Tax Equity and Educational  
11 Opportunities Support Act without the temporary aid adjustment  
12 factor as defined in section 79-1003 for the ensuing school fiscal  
13 year for the school district or multiple-district school system  
14 and the amount provided with the temporary aid adjustment factor.  
15 The State Department of Education shall certify to the school  
16 districts and multiple-district school systems the amount by which  
17 the maximum levy may be exceeded for the next school fiscal year  
18 pursuant to this subdivision (f) of this subsection on or before  
19 February 15 for school fiscal years 2004-05 through 2007-08.

20 (g) For each fiscal year, learning communities may levy a  
21 maximum levy of two cents on each one hundred dollars of taxable  
22 property subject to the levy for special building funds for member  
23 school districts. The proceeds from the levy pursuant to this  
24 subdivision shall be distributed pursuant to section 79-1073.01.

25 (h) For each fiscal year, learning communities may levy

1 a maximum levy of five cents on each one hundred dollars of  
2 taxable property subject to the levy for elementary learning center  
3 facilities and for up to fifty percent of the estimated cost for  
4 capital projects approved by the learning community coordinating  
5 council pursuant to section 79-2111.

6 (3) Community colleges may levy a maximum levy calculated  
7 pursuant to the Community College Foundation and Equalization Aid  
8 Act on each one hundred dollars of taxable property subject to the  
9 levy.

10 (4) (a) Natural resources districts may levy a maximum  
11 levy of four and one-half cents per one hundred dollars of taxable  
12 valuation of property subject to the levy.

13 (b) Natural resources districts shall also have the power  
14 and authority to levy a tax equal to the dollar amount by which  
15 their restricted funds budgeted to administer and implement ground  
16 water management activities and integrated management activities  
17 under the Nebraska Ground Water Management and Protection Act  
18 exceed their restricted funds budgeted to administer and implement  
19 ground water management activities and integrated management  
20 activities for FY2003-04, not to exceed one cent on each one  
21 hundred dollars of taxable valuation annually on all of the taxable  
22 property within the district.

23 (c) In addition, natural resources districts located in  
24 a river basin, subbasin, or reach that has been determined to  
25 be fully appropriated pursuant to section 46-714 or designated

1 as overappropriated pursuant to section 46-713 by the Department  
2 of Natural Resources shall also have the power and authority to  
3 levy a tax equal to the dollar amount by which their restricted  
4 funds budgeted to administer and implement ground water management  
5 activities and integrated management activities under the Nebraska  
6 Ground Water Management and Protection Act exceed their restricted  
7 funds budgeted to administer and implement ground water management  
8 activities and integrated management activities for FY2005-06, not  
9 to exceed three cents on each one hundred dollars of taxable  
10 valuation on all of the taxable property within the district for  
11 fiscal year 2006-07 and each fiscal year thereafter through fiscal  
12 year 2011-12.

13 (5) Any educational service unit authorized to levy a  
14 property tax pursuant to section 79-1225 may levy a maximum levy of  
15 one and one-half cents per one hundred dollars of taxable valuation  
16 of property subject to the levy.

17 (6)(a) Incorporated cities and villages which are not  
18 within the boundaries of a municipal county may levy a maximum levy  
19 of forty-five cents per one hundred dollars of taxable valuation  
20 of property subject to the levy plus an additional five cents per  
21 one hundred dollars of taxable valuation to provide financing for  
22 the municipality's share of revenue required under an agreement  
23 or agreements executed pursuant to the Interlocal Cooperation Act  
24 or the Joint Public Agency Act. The maximum levy shall include  
25 amounts levied to pay for sums to support a library pursuant



1 to section 51-201, museum pursuant to section 51-501, visiting  
2 community nurse, home health nurse, or home health agency pursuant  
3 to section 71-1637, or statue, memorial, or monument pursuant to  
4 section 80-202.

5 (b) Incorporated cities and villages which are within the  
6 boundaries of a municipal county may levy a maximum levy of ninety  
7 cents per one hundred dollars of taxable valuation of property  
8 subject to the levy. The maximum levy shall include amounts paid  
9 to a municipal county for county services, amounts levied to pay  
10 for sums to support a library pursuant to section 51-201, a museum  
11 pursuant to section 51-501, a visiting community nurse, home health  
12 nurse, or home health agency pursuant to section 71-1637, or a  
13 statue, memorial, or monument pursuant to section 80-202.

14 (7) Sanitary and improvement districts which have been in  
15 existence for more than five years may levy a maximum levy of forty  
16 cents per one hundred dollars of taxable valuation of property  
17 subject to the levy, and sanitary and improvement districts which  
18 have been in existence for five years or less shall not have  
19 a maximum levy. Unconsolidated sanitary and improvement districts  
20 which have been in existence for more than five years and are  
21 located in a municipal county may levy a maximum of eighty-five  
22 cents per hundred dollars of taxable valuation of property subject  
23 to the levy.

24 (8) Counties may levy or authorize a maximum levy of  
25 fifty cents per one hundred dollars of taxable valuation of

1 property subject to the levy, except that five cents per one  
2 hundred dollars of taxable valuation of property subject to the  
3 levy may only be levied to provide financing for the county's  
4 share of revenue required under an agreement or agreements executed  
5 pursuant to the Interlocal Cooperation Act or the Joint Public  
6 Agency Act. The maximum levy shall include amounts levied to pay  
7 for sums to support a library pursuant to section 51-201 or museum  
8 pursuant to section 51-501. The county may allocate up to fifteen  
9 cents of its authority to other political subdivisions subject  
10 to allocation of property tax authority under subsection (1) of  
11 section 77-3443 and not specifically covered in this section to  
12 levy taxes as authorized by law which do not collectively exceed  
13 fifteen cents per one hundred dollars of taxable valuation on any  
14 parcel or item of taxable property. The county may allocate to  
15 one or more other political subdivisions subject to allocation  
16 of property tax authority by the county under subsection (1) of  
17 section 77-3443 some or all of the county's five cents per one  
18 hundred dollars of valuation authorized for support of an agreement  
19 or agreements to be levied by the political subdivision for the  
20 purpose of supporting that political subdivision's share of revenue  
21 required under an agreement or agreements executed pursuant to the  
22 Interlocal Cooperation Act or the Joint Public Agency Act. If an  
23 allocation by a county would cause another county to exceed its  
24 levy authority under this section, the second county may exceed the  
25 levy authority in order to levy the amount allocated.

1           (9) Municipal counties may levy or authorize a maximum  
2 levy of one dollar per one hundred dollars of taxable valuation  
3 of property subject to the levy. The municipal county may allocate  
4 levy authority to any political subdivision or entity subject to  
5 allocation under section 77-3443.

6           (10) Rural and suburban fire protection districts may  
7 levy a maximum of ten and one-half cents per one hundred dollars of  
8 taxable valuation of property subject to the levy.

9           ~~(10)~~ (11) Property tax levies for judgments, except  
10 judgments or orders from the Commission of Industrial Relations,  
11 obtained against a political subdivision which require or obligate  
12 a political subdivision to pay such judgment, to the extent  
13 such judgment is not paid by liability insurance coverage of  
14 a political subdivision, for preexisting lease-purchase contracts  
15 approved prior to July 1, 1998, for bonded indebtedness approved  
16 according to law and secured by a levy on property except as  
17 provided in section 44-4317 for bonded indebtedness issued by  
18 educational service units and school districts, and for payments by  
19 a public airport to retire interest-free loans from the Department  
20 of Aeronautics in lieu of bonded indebtedness at a lower cost to  
21 the public airport are not included in the levy limits established  
22 by this section.

23           ~~(11)~~ (12) The limitations on tax levies provided in  
24 this section are to include all other general or special levies  
25 provided by law. Notwithstanding other provisions of law, the only

1 exceptions to the limits in this section are those provided by or  
2 authorized by sections 77-3442 to 77-3444.

3 ~~(12)~~ (13) Tax levies in excess of the limitations in  
4 this section shall be considered unauthorized levies under section  
5 77-1606 unless approved under section 77-3444.

6 ~~(13)~~ (14) For purposes of sections 77-3442 to 77-3444,  
7 political subdivision means a political subdivision of this state  
8 and a county agricultural society.

9 ~~(14)~~ (15) For school districts that file a binding  
10 resolution on or before May 9, 2008, with the county assessors,  
11 county clerks, and county treasurers for all counties in which  
12 the school district has territory pursuant to subsection (7) of  
13 section 79-458, if the combined levies, except levies for bonded  
14 indebtedness approved by the voters of the school district and  
15 levies for the refinancing of such bonded indebtedness, are in  
16 excess of the greater of (a) one dollar and twenty cents per  
17 one hundred dollars of taxable valuation of property subject to  
18 the levy or (b) the maximum levy authorized by a vote pursuant  
19 to section 77-3444, all school district levies, except levies for  
20 bonded indebtedness approved by the voters of the school district  
21 and levies for the refinancing of such bonded indebtedness, shall  
22 be considered unauthorized levies under section 77-1606.

23 Sec. 7. Section 77-3443, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 77-3443 (1) All political subdivisions, other than (a)

1 school districts, community colleges, natural resources districts,  
2 educational service units, cities, villages, counties, municipal  
3 counties, rural and suburban fire protection districts, and  
4 sanitary and improvement districts and (b) political subdivisions  
5 subject to municipal allocation under subsection (2) of this  
6 section, may levy taxes as authorized by law which are authorized  
7 by the county board of the county or the council of a municipal  
8 county in which the greatest portion of the valuation is located,  
9 which are counted in the county or municipal county levy limit  
10 provided in section 77-3442, and which do not collectively total  
11 more than fifteen cents per one hundred dollars of taxable  
12 valuation on any parcel or item of taxable property for all  
13 governments for which allocations are made by the municipality,  
14 county, or municipal county, except that such limitation shall  
15 not apply to property tax levies for preexisting lease-purchase  
16 contracts approved prior to July 1, 1998, for bonded indebtedness  
17 approved according to law and secured by a levy on property, and  
18 for payments by a public airport to retire interest-free loans from  
19 the Department of Aeronautics in lieu of bonded indebtedness at  
20 a lower cost to the public airport. The county board or council  
21 shall review and approve or disapprove the levy request of all  
22 political subdivisions subject to this subsection. The county board  
23 or council may approve all or a portion of the levy request  
24 and may approve a levy request that would allow the requesting  
25 political subdivision to levy a tax at a levy greater than that

1 permitted by law. The county board of a county or the council  
2 of a municipal county which contains a transit authority created  
3 pursuant to section 14-1803 shall allocate no less than three  
4 cents per one hundred dollars of taxable property within the city  
5 or municipal county subject to the levy to the transit authority  
6 if requested by such authority. For any political subdivision  
7 subject to this subsection that receives taxes from more than one  
8 county or municipal county, the levy shall be allocated only by  
9 the county or municipal county in which the greatest portion of  
10 the valuation is located. The county board of equalization shall  
11 certify all levies by October 15 to insure that the taxes levied by  
12 political subdivisions subject to this subsection do not exceed the  
13 allowable limit for any parcel or item of taxable property. The  
14 levy allocated by the county or municipal county may be exceeded  
15 as provided in section 77-3444.

16 (2) All city airport authorities established under  
17 the Cities Airport Authorities Act, community redevelopment  
18 authorities established under the Community Development Law,  
19 transit authorities established under the Transit Authority Law,  
20 and offstreet parking districts established under the Offstreet  
21 Parking District Act may be allocated property taxes as authorized  
22 by law which are authorized by the city, village, or municipal  
23 county and are counted in the city or village levy limit or  
24 municipal county levy limit provided by section 77-3442, except  
25 that such limitation shall not apply to property tax levies for

1 preexisting lease-purchase contracts approved prior to July 1,  
2 1998, for bonded indebtedness approved according to law and secured  
3 by a levy on property, and for payments by a public airport to  
4 retire interest-free loans from the Department of Aeronautics in  
5 lieu of bonded indebtedness at a lower cost to the public airport.  
6 For offstreet parking districts established under the Offstreet  
7 Parking District Act, the tax shall be counted in the allocation by  
8 the city proportionately, by dividing the total taxable valuation  
9 of the taxable property within the district by the total taxable  
10 valuation of the taxable property within the city multiplied by  
11 the levy of the district. The city council of a city which has  
12 created a transit authority pursuant to section 14-1803 or the  
13 council of a municipal county which contains a transit authority  
14 shall allocate no less than three cents per one hundred dollars  
15 of taxable property subject to the levy to the transit authority  
16 if requested by such authority. The city council, village board,  
17 or council shall review and approve or disapprove the levy request  
18 of the political subdivisions subject to this subsection. The city  
19 council, village board, or council may approve all or a portion of  
20 the levy request and may approve a levy request that would allow  
21 a levy greater than that permitted by law. The levy allocated by  
22 the municipality or municipal county may be exceeded as provided  
23 in section 77-3444.

24 (3) On or before August 1, all political subdivisions  
25 subject to county, municipal, or municipal county levy authority

1 under this section shall submit a preliminary request for levy  
2 allocation to the county board, city council, village board, or  
3 council that is responsible for levying such taxes. The preliminary  
4 request of the political subdivision shall be in the form of a  
5 resolution adopted by a majority vote of members present of the  
6 political subdivision's governing body. The failure of a political  
7 subdivision to make a preliminary request shall preclude such  
8 political subdivision from using procedures set forth in section  
9 77-3444 to exceed the final levy allocation as determined in  
10 subsection (4) of this section.

11 (4) Each county board, city council, village board, or  
12 council shall (a) adopt a resolution by a majority vote of members  
13 present which determines a final allocation of levy authority  
14 to its political subdivisions and (b) forward a copy of such  
15 resolution to the chairperson of the governing body of each of its  
16 political subdivisions. No final levy allocation shall be changed  
17 after September 1 except by agreement between both the county  
18 board, city council, village board, or council which determined the  
19 amount of the final levy allocation and the governing body of the  
20 political subdivision whose final levy allocation is at issue.

21 Sec. 8. Section 77-3444, Revised Statutes Cumulative  
22 Supplement, 2008, is amended to read:

23 77-3444 (1) A political subdivision, other than a Class I  
24 school district, may exceed the limits provided in section 77-3442  
25 or a final levy allocation determination as provided in section



1 77-3443 by an amount not to exceed a maximum levy approved by a  
2 majority of registered voters voting on the issue in a primary,  
3 general, or special election at which the issue is placed before  
4 the registered voters. A vote to exceed the limits provided in  
5 section 77-3442 or a final levy allocation as provided in section  
6 77-3443 must be approved prior to October 10 of the fiscal  
7 year which is to be the first to exceed the limits or final  
8 levy allocation. The governing body of the political subdivision  
9 may call for the submission of the issue to the voters (a) by  
10 passing a resolution calling for exceeding the limits or final  
11 levy allocation by a vote of at least two-thirds of the members  
12 of the governing body and delivering a copy of the resolution to  
13 the county clerk or election commissioner of every county which  
14 contains all or part of the political subdivision or (b) upon  
15 receipt of a petition by the county clerk or election commissioner  
16 of every county containing all or part of the political subdivision  
17 requesting an election signed by at least five percent of the  
18 registered voters residing in the political subdivision. The  
19 resolution or petition shall include the amount of levy which  
20 would be imposed in excess of the limits provided in section  
21 77-3442 or the final levy allocation as provided in section 77-3443  
22 and the duration of the excess levy authority. The excess levy  
23 authority shall not have a duration greater than five years. Any  
24 resolution or petition calling for a special election shall be  
25 filed with the county clerk or election commissioner no later than

1 thirty days prior to the date of the election, and the time of  
2 publication and providing a copy of the notice of election required  
3 in section 32-802 shall be no later than twenty days prior to the  
4 election. The county clerk or election commissioner shall place the  
5 issue on the ballot at an election as called for in the resolution  
6 or petition which is at least thirty days after receipt of the  
7 resolution or petition. The election shall be held pursuant to  
8 the Election Act. For petitions filed with the county clerk or  
9 election commissioner on or after May 1, 1998, the petition shall  
10 be in the form as provided in sections 32-628 to 32-631. Any  
11 excess levy authority approved under this section shall terminate  
12 pursuant to its terms, on a vote of the governing body of the  
13 political subdivision to terminate the authority to levy more than  
14 the limits, at the end of the fourth fiscal year following the  
15 first year in which the levy exceeded the limit or the final  
16 levy allocation, or as provided in subsection (4) of this section,  
17 whichever is earliest. A governing body may pass no more than one  
18 resolution calling for an election pursuant to this section during  
19 any one calendar year. Only one election may be held in any one  
20 calendar year pursuant to a petition initiated under this section.

21 (2) The ballot question may include any terms and  
22 conditions set forth in the resolution or petition and shall  
23 include the following: "Shall (name of political subdivision) be  
24 allowed to levy a property tax not to exceed ..... cents per  
25 one hundred dollars of taxable valuation in excess of the limits

1 prescribed by law until fiscal year ..... for the purposes  
 2 of (general operations; building construction, remodeling, or site  
 3 acquisition; or both general operations and building construction,  
 4 remodeling, or site acquisition)?" . If a majority of the votes cast  
 5 upon the ballot question are in favor of such tax, the county board  
 6 shall authorize a tax in excess of the limits in section 77-3442  
 7 or the final levy allocation in section 77-3443 but such tax shall  
 8 not exceed the amount stated in the ballot question. If a majority  
 9 of those voting on the ballot question are opposed to such tax, the  
 10 governing body of the political subdivision shall not impose such  
 11 tax.

12 (3) In lieu of the election procedures in subsection  
 13 (1) of this section, any political subdivision subject to section  
 14 77-3443, other than a Class I school district, and villages and  
 15 rural and suburban fire protection districts may approve a levy  
 16 in excess of the limits in section 77-3442 or the final levy  
 17 allocation provided in section 77-3443 for a period of one year  
 18 at a meeting of the residents of the political subdivision, ~~or~~  
 19 village, or rural or suburban fire protection district, called  
 20 after notice is published in a newspaper of general circulation  
 21 in the political subdivision, ~~or~~ village, or rural or suburban  
 22 fire protection district, at least twenty days prior to the  
 23 meeting. At least ten percent of the registered voters residing  
 24 in the political subdivision, ~~or~~ village, or rural or suburban  
 25 fire protection district shall constitute a quorum for purposes

1 of taking action to exceed the limits or final levy allocation.  
2 A record shall be made of the registered voters residing in the  
3 political subdivision or village who are present at the meeting.  
4 The method of voting at the meeting shall protect the secrecy  
5 of the ballot. If a majority of the registered voters present  
6 at the meeting vote in favor of exceeding the limits or final  
7 levy allocation, a copy of the record of that action shall be  
8 forwarded to the county board prior to October 10 and the county  
9 board shall authorize a levy as approved by the residents for the  
10 year. If a majority of the registered voters present at the meeting  
11 vote against exceeding the limits or final allocation, the limit  
12 or allocation shall not be exceeded and the political subdivision  
13 shall have no power to call for an election under subsection (1) of  
14 this section.

15 (4) A political subdivision, other than a Class I school  
16 district, may rescind or modify a previously approved excess levy  
17 authority prior to its expiration by a majority of registered  
18 voters voting on the issue in a primary, general, or special  
19 election at which the issue is placed before the registered voters.  
20 A vote to rescind or modify must be approved prior to October  
21 10 of the fiscal year for which it is to be effective. The  
22 governing body of the political subdivision may call for the  
23 submission of the issue to the voters (a) by passing a resolution  
24 calling for the rescission or modification by a vote of at least  
25 two-thirds of the members of the governing body and delivering a

1 copy of the resolution to the county clerk or election commissioner  
2 of every county which contains all or part of the political  
3 subdivision or (b) upon receipt of a petition by the county clerk  
4 or election commissioner of every county containing all or part of  
5 the political subdivision requesting an election signed by at least  
6 five percent of the registered voters residing in the political  
7 subdivision. The resolution or petition shall include the amount  
8 and the duration of the previously approved excess levy authority  
9 and a statement that either such excess levy authority will be  
10 rescinded or such excess levy authority will be modified. If the  
11 excess levy authority will be modified, the amount and duration of  
12 such modification shall be stated. The modification shall not have  
13 a duration greater than five years. The county clerk or election  
14 commissioner shall place the issue on the ballot at an election as  
15 called for in the resolution or petition which is at least thirty  
16 days after receipt of the resolution or petition, and the time of  
17 publication and providing a copy of the notice of election required  
18 in section 32-802 shall be no later than twenty days prior to the  
19 election. The election shall be held pursuant to the Election Act.

20 (5) For purposes of this section, when the political  
21 subdivision is a sanitary and improvement district, registered  
22 voter means a person qualified to vote as provided in section  
23 31-735. Any election conducted under this section for a sanitary  
24 and improvement district shall be conducted and counted as provided  
25 in sections 31-735 to 31-735.06.

1           (6) For purposes of this section, when the political  
2 subdivision is a school district or a multiple-district school  
3 system, registered voter includes both (a) persons qualified to  
4 vote for the members of the school board of the school district  
5 which is voting to exceed the maximum levy limits pursuant to this  
6 section and (b) persons in those portions of any Class I district  
7 which are affiliated with or a part of the school district which is  
8 voting pursuant to this section, if such voter is also qualified to  
9 vote for the school board of the affected Class I school district.

10           Sec. 9. This act becomes operative on July 1, 2010.

11           Sec. 10. Original sections 13-2809, 35-508, 35-509,  
12 35-514.02, 35-517, and 77-3443, Reissue Revised Statutes of  
13 Nebraska, and sections 77-3442 and 77-3444, Revised Statutes  
14 Cumulative Supplement, 2008, are repealed.