

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 283**

Introduced by Haar, 21.

Read first time January 12, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-10,110, Revised  
2 Statutes Cumulative Supplement, 2010; to provide for a  
3 tax levy and bond authority relating to energy efficiency  
4 projects as prescribed; and to repeal the original  
5 section.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 79-10,110, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           79-10,110 (1) After making a determination that an actual  
4 or potential environmental hazard or accessibility barrier exists,  
5 that a life safety code violation exists, or that expenditures are  
6 needed for indoor air quality, ~~or~~ mold abatement and prevention, or  
7 an energy efficiency project within the school buildings or grounds  
8 under its control, a school board may make and deliver to the county  
9 clerk of such county in which any part of the school district is  
10 situated, not later than the date provided in section 13-508, an  
11 itemized estimate of the amounts necessary to be expended for the  
12 abatement of such environmental hazard, for accessibility barrier  
13 elimination, ~~or~~ for modifications for life safety code violations,  
14 indoor air quality, or mold abatement and prevention, or for an  
15 energy efficiency project in such school buildings or grounds. The  
16 board shall designate the particular environmental hazard abatement  
17 project, accessibility barrier elimination project, ~~or~~ modification  
18 for life safety code violations, indoor air quality, or mold  
19 abatement and prevention, or energy efficiency project for which the  
20 tax levy provided for by this section will be expended, the period of  
21 years, which shall not exceed ten years, for which the tax will be  
22 levied for such project, and the amount of the levy for each year of  
23 the period.

24           (2) After a public hearing, a school board may undertake  
25 any qualified capital purpose in any qualified zone academy under its

1 control and may levy a tax as provided in this section to repay a  
2 qualified zone academy bond issued for such undertaking. The board  
3 shall designate: (a) The particular qualified capital purpose for  
4 which the qualified zone academy bond was issued and for which the  
5 tax levy provided for by this section will be expended; (b) the  
6 period of years for which the tax will be levied to repay such  
7 qualified zone academy bond, not exceeding the maximum term for such  
8 qualified zone academy bond established pursuant to federal law or,  
9 for any such bond issued prior to May 20, 2009, fifteen years; and  
10 (c) the amount of the levy for each year of the period. The hearing  
11 required by this subsection shall be held only after notice of such  
12 hearing has been published for three consecutive weeks prior to the  
13 hearing in a legal newspaper published or of general circulation in  
14 the school district.

15 (3) After a public hearing, a school board may undertake  
16 construction of a new public school facility or the acquisition of  
17 land on which such a facility is to be constructed or any expansion,  
18 rehabilitation, modernization, renovation, or repair of any existing  
19 school facilities under its control and may levy a tax to repay any  
20 American Recovery and Reinvestment Act of 2009 bond. The board shall  
21 designate: (a) The particular project or projects for which the bond  
22 will be issued and for which the tax levy provided by this section  
23 will be expended; (b) the period of years for which the tax will be  
24 levied to repay such bond, not exceeding the maximum term established  
25 pursuant to federal law for the type of bond as permitted by the

1 federal American Recovery and Reinvestment Act of 2009 or, if no such  
2 term is established, thirty years; and (c) the amount of the levy for  
3 each year of such period. Prior to the public hearing, the school  
4 board shall prepare an itemized estimate of the amounts necessary to  
5 be expended for the project or projects. The hearing required by this  
6 subsection shall be held only after notice of such hearing has been  
7 published for three consecutive weeks prior to the hearing in a legal  
8 newspaper published or of general circulation in the school district.  
9 The bond to be issued under this subsection may consist of any type  
10 or form of bond permitted by the federal American Recovery and  
11 Reinvestment Act of 2009 except qualified zone academy bonds, the use  
12 of which is authorized pursuant to subsection (2) of this section.

13 (4) The board may designate more than one project under  
14 subsection (1) of this section, more than one qualified capital  
15 purpose under subsection (2) of this section, or more than one  
16 American Recovery and Reinvestment Act of 2009 purpose under  
17 subsection (3) of this section and levy a tax pursuant to this  
18 section for each such project, qualified capital purpose, or American  
19 Recovery and Reinvestment Act of 2009 purpose, concurrently or  
20 consecutively, as the case may be, if the aggregate levy in each year  
21 and the duration of each such levy will not exceed the limitations  
22 specified in this section. Each levy for a project, a qualified  
23 capital purpose, or an American Recovery and Reinvestment Act of 2009  
24 purpose which is authorized by this section may be imposed for such  
25 duration as the board specifies, notwithstanding the contemporaneous

1 existence or subsequent imposition of any other levy for another  
2 project, qualified capital purpose, or American Recovery and  
3 Reinvestment Act of 2009 purpose imposed pursuant to this section and  
4 notwithstanding the subsequent issuance by the district of bonded  
5 indebtedness payable from its general fund levy.

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

21 (6) If such board operates grades nine through twelve as  
22 part of an affiliated school system, it shall designate the fraction  
23 of the project or undertaking to be conducted for the benefit of  
24 grades nine through twelve. Such fraction shall be raised by a levy  
25 placed upon all of the taxable value of all taxable property in the

1 affiliated school system pursuant to subsection (2) of section  
2 79-1075. The balance of the project or undertaking to be conducted  
3 for the benefit of grades kindergarten through eight shall be raised  
4 by a levy placed upon all of the taxable value of all taxable  
5 property in the district which is governed by such board. The  
6 combined rate for both levies in the high school district, to be  
7 determined by such board, shall not exceed five and one-fifth cents  
8 on each one hundred dollars of taxable value.

9 (7) Each board which submits an itemized estimate shall  
10 establish an environmental hazard abatement and accessibility barrier  
11 elimination project account, a life safety code modification project  
12 account, an indoor air quality project account, ~~or~~ a mold abatement  
13 and prevention project account, or an energy efficiency project  
14 account, each board which undertakes a qualified capital purpose  
15 shall establish a qualified capital purpose undertaking account,  
16 within the qualified capital purpose undertaking fund, and each board  
17 which undertakes an American Recovery and Reinvestment Act of 2009  
18 purpose shall establish an American Recovery and Reinvestment Act of  
19 2009 purpose undertaking account. Taxes collected pursuant to this  
20 section shall be credited to the appropriate account to cover the  
21 project or undertaking costs. Such estimates may be presented to the  
22 county clerk and taxes levied accordingly.

23 (8) For purposes of this section:

24 (a) Abatement includes, but is not limited to, any  
25 inspection and testing regarding environmental hazards, any

1 maintenance to reduce, lessen, put an end to, diminish, moderate,  
2 decrease, control, dispose of, or eliminate environmental hazards,  
3 any removal or encapsulation of environmentally hazardous material or  
4 property, any restoration or replacement of material or property, any  
5 related architectural and engineering services, and any other action  
6 to reduce or eliminate environmental hazards in the school buildings  
7 or on the school grounds under the board's control, except that  
8 abatement does not include the encapsulation of any material  
9 containing more than one percent friable asbestos;

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

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

21 (d) American Recovery and Reinvestment Act of 2009 bond  
22 means any type or form of bond permitted by the federal American  
23 Recovery and Reinvestment Act of 2009, as such act or bond may be  
24 amended and supplemented, including the federal Hiring Incentives to  
25 Restore Employment Act, as amended and supplemented, for use by

1 schools, except qualified zone academy bonds;

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

8 (f) Energy efficiency project includes, but is not  
9 limited to, any inspection and testing regarding energy usage, any  
10 maintenance to reduce, lessen, put an end to, diminish, moderate,  
11 decrease, control, or eliminate energy usage, any restoration or  
12 replacement of material or related architectural and engineering  
13 services, and any other action to reduce or eliminate energy usage in  
14 new or existing school buildings or on school grounds under the  
15 control of a school board;

16 ~~(f)~~-(g) Environmental hazard means any contamination of  
17 the air, water, or land surface or subsurface caused by any substance  
18 adversely affecting human health or safety if such substance has been  
19 declared hazardous by a federal or state statute, rule, or  
20 regulation;

21 ~~(g)~~-(h) Modification for indoor air quality includes, but  
22 is not limited to, any inspection and testing regarding indoor air  
23 quality, any maintenance to reduce, lessen, put an end to, diminish,  
24 moderate, decrease, control, dispose of, or eliminate indoor air  
25 quality problems, any restoration or replacement of material or



1 related architectural and engineering services, and any other action  
2 to reduce or eliminate indoor air quality problems or to enhance air  
3 quality conditions in new or existing school buildings or on school  
4 grounds under the control of a school board;

5 ~~(h)~~—(i) Modification for life safety code violation  
6 includes, but is not limited to, any inspection and testing regarding  
7 life safety codes, any maintenance to reduce, lessen, put an end to,  
8 diminish, moderate, decrease, control, dispose of, or eliminate life  
9 safety hazards, any restoration or replacement of material or  
10 property, any related architectural and engineering services, and any  
11 other action to reduce or eliminate life safety hazards in new or  
12 existing school buildings or on school grounds under the control of a  
13 school board;

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

23 ~~(j)~~—(k) Qualified capital purpose means (i)  
24 rehabilitating or repairing the public school facility in which the  
25 qualified zone academy is established or (ii) providing equipment for

1 use at such qualified zone academy;

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

7 ~~(l)~~(m) Qualified zone academy allocation means the  
8 allocation of the qualified zone academy bond limitation by the State  
9 Department of Education to the qualified zone academies pursuant to  
10 (i) 26 U.S.C. 1397E(e)(2), as such section existed on October 3,  
11 2008, for allocations relating to qualified zone academy bonds issued  
12 on or before such date, and (ii) 26 U.S.C. 54E(c)(2), as such section  
13 existed on October 4, 2008, for allocations relating to qualified  
14 zone academy bonds issued on or after such date; and

15 ~~(m)~~(n) Qualified zone academy bond has the meaning found  
16 in (i) 26 U.S.C. 1397E(d)(1), as such section existed on October 3,  
17 2008, for such bonds issued on or before such date, and (ii) 26  
18 U.S.C. 54E(a), as such section existed on and after October 4, 2008,  
19 for such bonds issued on or after such date, as such section or bonds  
20 may be amended or supplemented.

21 (9) Accessibility barrier elimination project costs  
22 includes, but is not limited to, inspection, maintenance, accounting,  
23 emergency services, consultation, or any other action to reduce or  
24 eliminate accessibility barriers.

25 (10) For the purpose of paying amounts necessary for the

1 abatement of environmental hazards, accessibility barrier  
2 elimination, ~~or~~ modifications for life safety code violations, indoor  
3 air quality, or mold abatement and prevention, for an energy  
4 efficiency project, or for an American Recovery and Reinvestment Act  
5 of 2009 purpose, the board may borrow money, establish a sinking  
6 fund, and issue bonds and other evidences of indebtedness of the  
7 district, which bonds and other evidences of indebtedness shall be  
8 secured by and payable from an irrevocable pledge by the district of  
9 amounts received in respect of the tax levy provided for by this  
10 section and any other funds of the district available therefor. Bonds  
11 and other evidences of indebtedness issued by a district pursuant to  
12 this subsection shall not constitute a general obligation of the  
13 district or be payable from any portion of its general fund levy.

14 (11) The total principal amount of bonds for  
15 modifications to correct life safety code violations, for indoor air  
16 quality problems, for mold abatement and prevention, for an energy  
17 efficiency project, or for an American Recovery and Reinvestment Act  
18 of 2009 purpose which may be issued pursuant to this section shall  
19 not exceed the total amount specified in the itemized estimate  
20 described in subsections (1) and (3) of this section.

21 (12) The total principal amount of qualified zone academy  
22 bonds which may be issued pursuant to this section for qualified  
23 capital purposes with respect to a qualified zone academy shall not  
24 exceed the qualified zone academy allocation granted to the board by  
25 the department. The total amount that may be financed by qualified

1 zone academy bonds pursuant to this section for qualified purposes  
2 with respect to a qualified zone academy shall not exceed seven and  
3 one-half million dollars statewide in a single year. In any year that  
4 the Nebraska qualified zone academy allocations exceed seven and one-  
5 half million dollars for qualified capital purposes to be financed  
6 with qualified zone academy bonds issued pursuant to this section,  
7 (a) the department shall reduce such allocations proportionally such  
8 that the statewide total for such allocations equals seven and one-  
9 half million dollars and (b) the difference between the Nebraska  
10 allocation and seven and one-half million dollars shall be available  
11 to qualified zone academies for requests that will be financed with  
12 qualified zone academy bonds issued without the benefit of this  
13 section.

14           Nothing in this section directs the State Department of  
15 Education to give any preference to allocation requests that will be  
16 financed with qualified zone academy bonds issued pursuant to this  
17 section.

18           (13) The State Department of Education shall establish  
19 procedures for allocating bond authority to school boards as may be  
20 necessary pursuant to an American Recovery and Reinvestment Act of  
21 2009 bond.

22           Sec. 2. Original section 79-10,110, Revised Statutes  
23 Cumulative Supplement, 2010, is repealed.