

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1106

Introduced by Linehan, 39.

Read first time January 18, 2018

Committee: Revenue

1 A BILL FOR AN ACT relating to property taxes; to amend sections 32-559
2 and 77-3444, Reissue Revised Statutes of Nebraska, and section
3 77-3442, Revised Statutes Supplement, 2017; to change requirements
4 for authority for a political subdivision to exceed maximum levy
5 provisions; to harmonize provisions; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-559, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 32-559 Except as provided in section 77-3444 and section 4 of this
4 act, any issue to be submitted to the registered voters at a special
5 election by a political subdivision shall be certified by the clerk of
6 the political subdivision to the election commissioner or county clerk at
7 least fifty days prior to the election. A special election may be held by
8 mail as provided in sections 32-952 to 32-959. Any other special election
9 under this section shall be subject to section 32-405.

10 In lieu of submitting the issue at a special election, any political
11 subdivision may submit the issue at a statewide primary or general
12 election or at any scheduled county election, except that no such issue
13 shall be submitted at a statewide election or scheduled county election
14 unless the issue to be submitted has been certified by the clerk of the
15 political subdivision to the election commissioner or county clerk by
16 March 1 for the primary election and by September 1 for the general
17 election. After the election commissioner or county clerk has received
18 the certification of the issue to be submitted, he or she shall be
19 responsible for all matters relating to the submission of the issue to
20 the registered voters, except that the clerk of the political subdivision
21 shall be responsible for the publication or posting of any required
22 special notice of the submission of such issue other than the notice
23 required to be given of the statewide election issues. The election
24 commissioner or county clerk shall prepare the ballots and issue ballots
25 for early voting and shall also conduct the submission of the issue,
26 including the receiving and counting of the ballots on the issue. The
27 election returns shall be made to the election commissioner or county
28 clerk. The ballots shall be counted and canvassed at the same time and in
29 the same manner as the other ballots. Upon completion of the canvass of
30 the vote by the county canvassing board, the election commissioner or
31 county clerk shall certify the election results to the governing body of

1 the political subdivision. The canvass by the county canvassing board
2 shall have the same force and effect as if made by the governing body of
3 the political subdivision.

4 Sec. 2. Section 77-3442, Revised Statutes Supplement, 2017, is
5 amended to read:

6 77-3442 (1) Property tax levies for the support of local governments
7 for fiscal years beginning on or after July 1, 1998, shall be limited to
8 the amounts set forth in this section except as provided in section
9 77-3444.

10 (2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this
11 section, school districts and multiple-district school systems may levy a
12 maximum levy of one dollar and five cents per one hundred dollars of
13 taxable valuation of property subject to the levy.

14 (b) For each fiscal year prior to fiscal year 2017-18, learning
15 communities may levy a maximum levy for the general fund budgets of
16 member school districts of ninety-five cents per one hundred dollars of
17 taxable valuation of property subject to the levy. The proceeds from the
18 levy pursuant to this subdivision shall be distributed pursuant to
19 section 79-1073.

20 (c) Except as provided in subdivision (2)(e) of this section, for
21 each fiscal year prior to fiscal year 2017-18, school districts that are
22 members of learning communities may levy for purposes of such districts'
23 general fund budget and special building funds a maximum combined levy of
24 the difference of one dollar and five cents on each one hundred dollars
25 of taxable property subject to the levy minus the learning community levy
26 pursuant to subdivision (2)(b) of this section for such learning
27 community.

28 (d) Excluded from the limitations in subdivisions (2)(a) and (2)(c)
29 of this section are (i) amounts levied to pay for current and future sums
30 agreed to be paid by a school district to certificated employees in
31 exchange for a voluntary termination of employment occurring prior to

1 September 1, 2017, (ii) amounts levied by a school district otherwise at
2 the maximum levy pursuant to subdivision (2)(a) of this section to pay
3 for current and future qualified voluntary termination incentives for
4 certificated teachers pursuant to subsection (3) of section 79-8,142 that
5 are not otherwise included in an exclusion pursuant to subdivision (2)(d)
6 of this section, (iii) amounts levied by a school district otherwise at
7 the maximum levy pursuant to subdivision (2)(a) of this section to pay
8 for seventy-five percent of the current and future sums agreed to be paid
9 to certificated employees in exchange for a voluntary termination of
10 employment occurring between September 1, 2017, and August 31, 2018, as a
11 result of a collective-bargaining agreement in force and effect on
12 September 1, 2017, that are not otherwise included in an exclusion
13 pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a
14 school district otherwise at the maximum levy pursuant to subdivision (2)
15 (a) of this section to pay for fifty percent of the current and future
16 sums agreed to be paid to certificated employees in exchange for a
17 voluntary termination of employment occurring between September 1, 2018,
18 and August 31, 2019, as a result of a collective-bargaining agreement in
19 force and effect on September 1, 2017, that are not otherwise included in
20 an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts
21 levied by a school district otherwise at the maximum levy pursuant to
22 subdivision (2)(a) of this section to pay for twenty-five percent of the
23 current and future sums agreed to be paid to certificated employees in
24 exchange for a voluntary termination of employment occurring between
25 September 1, 2019, and August 31, 2020, as a result of a collective-
26 bargaining agreement in force and effect on September 1, 2017, that are
27 not otherwise included in an exclusion pursuant to subdivision (2)(d) of
28 this section, (vi) amounts levied in compliance with sections 79-10,110
29 and 79-10,110.02, and (vii) amounts levied to pay for special building
30 funds and sinking funds established for projects commenced prior to April
31 1, 1996, for construction, expansion, or alteration of school district

1 buildings. For purposes of this subsection, commenced means any action
2 taken by the school board on the record which commits the board to expend
3 district funds in planning, constructing, or carrying out the project.

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

12 (f) For each fiscal year, learning communities may levy a maximum
13 levy of one-half cent on each one hundred dollars of taxable property
14 subject to the levy for elementary learning center facility leases, for
15 remodeling of leased elementary learning center facilities, and for up to
16 fifty percent of the estimated cost for focus school or program capital
17 projects approved by the learning community coordinating council pursuant
18 to section 79-2111.

19 (g) For each fiscal year, learning communities may levy a maximum
20 levy of one and one-half cents on each one hundred dollars of taxable
21 property subject to the levy for early childhood education programs for
22 children in poverty, for elementary learning center employees, for
23 contracts with other entities or individuals who are not employees of the
24 learning community for elementary learning center programs and services,
25 and for pilot projects, except that no more than ten percent of such levy
26 may be used for elementary learning center employees.

27 (3) For each fiscal year, community college areas may levy the
28 levies provided in subdivisions (2)(a) through (c) of section 85-1517, in
29 accordance with the provisions of such subdivisions. A community college
30 area may exceed the levy provided in subdivision (2)(b) of section
31 85-1517 by the amount necessary to retire general obligation bonds

1 assumed by the community college area or issued pursuant to section
2 85-1515 according to the terms of such bonds or for any obligation
3 pursuant to section 85-1535 entered into prior to January 1, 1997.

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

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

16 (c) In addition, natural resources districts located in a river
17 basin, subbasin, or reach that has been determined to be fully
18 appropriated pursuant to section 46-714 or designated as overappropriated
19 pursuant to section 46-713 by the Department of Natural Resources shall
20 also have the power and authority to levy a tax equal to the dollar
21 amount by which their restricted funds budgeted to administer and
22 implement ground water management activities and integrated management
23 activities under the Nebraska Ground Water Management and Protection Act
24 exceed their restricted funds budgeted to administer and implement ground
25 water management activities and integrated management activities for
26 FY2005-06, not to exceed three cents on each one hundred dollars of
27 taxable valuation on all of the taxable property within the district for
28 fiscal year 2006-07 and each fiscal year thereafter through fiscal year
29 2017-18.

30 (5) Any educational service unit authorized to levy a property tax
31 pursuant to section 79-1225 may levy a maximum levy of one and one-half

1 cents per one hundred dollars of taxable valuation of property subject to
2 the levy.

3 (6)(a) Incorporated cities and villages which are not within the
4 boundaries of a municipal county may levy a maximum levy of forty-five
5 cents per one hundred dollars of taxable valuation of property subject to
6 the levy plus an additional five cents per one hundred dollars of taxable
7 valuation to provide financing for the municipality's share of revenue
8 required under an agreement or agreements executed pursuant to the
9 Interlocal Cooperation Act or the Joint Public Agency Act. The maximum
10 levy shall include amounts levied to pay for sums to support a library
11 pursuant to section 51-201, museum pursuant to section 51-501, visiting
12 community nurse, home health nurse, or home health agency pursuant to
13 section 71-1637, or statue, memorial, or monument pursuant to section
14 80-202.

15 (b) Incorporated cities and villages which are within the boundaries
16 of a municipal county may levy a maximum levy of ninety cents per one
17 hundred dollars of taxable valuation of property subject to the levy. The
18 maximum levy shall include amounts paid to a municipal county for county
19 services, amounts levied to pay for sums to support a library pursuant to
20 section 51-201, a museum pursuant to section 51-501, a visiting community
21 nurse, home health nurse, or home health agency pursuant to section
22 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

23 (7) Sanitary and improvement districts which have been in existence
24 for more than five years may levy a maximum levy of forty cents per one
25 hundred dollars of taxable valuation of property subject to the levy, and
26 sanitary and improvement districts which have been in existence for five
27 years or less shall not have a maximum levy. Unconsolidated sanitary and
28 improvement districts which have been in existence for more than five
29 years and are located in a municipal county may levy a maximum of eighty-
30 five cents per hundred dollars of taxable valuation of property subject
31 to the levy.

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

25 (9) Municipal counties may levy or authorize a maximum levy of one
26 dollar per one hundred dollars of taxable valuation of property subject
27 to the levy. The municipal county may allocate levy authority to any
28 political subdivision or entity subject to allocation under section
29 77-3443.

30 (10) Beginning July 1, 2016, rural and suburban fire protection
31 districts may levy a maximum levy of ten and one-half cents per one

1 hundred dollars of taxable valuation of property subject to the levy if
2 (a) such district is located in a county that had a levy pursuant to
3 subsection (8) of this section in the previous year of at least forty
4 cents per one hundred dollars of taxable valuation of property subject to
5 the levy or (b) for any rural or suburban fire protection district that
6 had a levy request pursuant to section 77-3443 in the previous year, the
7 county board of the county in which the greatest portion of the valuation
8 of such district is located did not authorize any levy authority to such
9 district in the previous year.

10 (11) Property tax levies (a) for judgments, except judgments or
11 orders from the Commission of Industrial Relations, obtained against a
12 political subdivision which require or obligate a political subdivision
13 to pay such judgment, to the extent such judgment is not paid by
14 liability insurance coverage of a political subdivision, (b) for
15 preexisting lease-purchase contracts approved prior to July 1, 1998, (c)
16 for bonds as defined in section 10-134 approved according to law and
17 secured by a levy on property except as provided in section 44-4317 for
18 bonded indebtedness issued by educational service units and school
19 districts, and (d) for payments by a public airport to retire interest-
20 free loans from the Division of Aeronautics of the Department of
21 Transportation in lieu of bonded indebtedness at a lower cost to the
22 public airport are not included in the levy limits established by this
23 section.

24 (12) The limitations on tax levies provided in this section are to
25 include all other general or special levies provided by law.
26 Notwithstanding other provisions of law, the only exceptions to the
27 limits in this section are those provided by or authorized by sections
28 77-3442 to 77-3444.

29 (13) Tax levies in excess of the limitations in this section shall
30 be considered unauthorized levies under section 77-1606 unless approved
31 under section 77-3444.

1 (14) For purposes of sections 77-3442 to 77-3444 and section 4 of
2 this act, political subdivision means a political subdivision of this
3 state and a county agricultural society.

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

17 Sec. 3. Section 77-3444, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 77-3444 (1)(a) ~~(1)~~ A political subdivision, other than a Class I
20 school district, may exceed the limits provided in section 77-3442 or a
21 final levy allocation determination as provided in section 77-3443 by an
22 amount not to exceed a maximum levy approved by the ~~a majority of~~
23 registered voters pursuant to section 4 of this act ~~voting on the issue~~
24 ~~in a primary, general, or special election at which the issue is placed~~
25 ~~before the registered voters~~. A vote to exceed the limits provided in
26 section 77-3442 or a final levy allocation as provided in section 77-3443
27 must be approved prior to October 10 of the fiscal year which is to be
28 the first to exceed the limits or final levy allocation. The governing
29 body of the political subdivision may call for the submission of the
30 issue to the voters (i) ~~(a)~~ by passing a resolution calling for exceeding
31 the limits or final levy allocation by a vote of at least two-thirds of

1 the members of the governing body and delivering a copy of the resolution
2 to the county clerk or election commissioner of every county which
3 contains all or part of the political subdivision or (ii) ~~(b)~~ upon
4 receipt of a petition by the county clerk or election commissioner of
5 every county containing all or part of the political subdivision
6 requesting an election signed by at least five percent of the registered
7 voters residing in the political subdivision. The resolution or petition
8 shall include the amount of levy which would be imposed in excess of the
9 limits provided in section 77-3442 or the final levy allocation as
10 provided in section 77-3443 and the duration of the excess levy
11 authority. The excess levy authority shall not have a duration greater
12 than five years.

13 (b) Any resolution or petition calling for a special election shall
14 be filed with the county clerk or election commissioner no later than
15 thirty days prior to the date of the election, and the time of
16 publication and providing a copy of the notice of election required in
17 section 32-802 shall be no later than twenty days prior to the election.
18 The county clerk or election commissioner shall place the issue on the
19 ballot at an election as called for in the resolution or petition which
20 is at least thirty days after receipt of the resolution or petition. The
21 election shall be held pursuant to the Election Act. ~~The For petitions~~
22 ~~filed with the county clerk or election commissioner on or after May 1,~~
23 ~~1998,~~ the petition shall be in the form as provided in sections 32-628 to
24 32-631.

25 (c) Any excess levy authority approved under this section shall
26 terminate pursuant to its terms, on a vote of the governing body of the
27 political subdivision to terminate the authority to levy more than the
28 limits, at the end of the fourth fiscal year following the first year in
29 which the levy exceeded the limit or the final levy allocation, or as
30 provided in subsection (3) ~~(4)~~ of this section, whichever is earliest.

31 (d) A governing body may pass no more than one resolution calling

1 for an election pursuant to this section during any one calendar year.
2 Only one election may be held in any one calendar year pursuant to a
3 petition initiated under this section.

4 ~~(2) The ballot question may include any terms and conditions set~~
5 ~~forth in the resolution or petition and shall include the following:~~
6 ~~"Shall (name of political subdivision) be allowed to levy a property tax~~
7 ~~not to exceed cents per one hundred dollars of taxable~~
8 ~~valuation in excess of the limits prescribed by law until fiscal~~
9 ~~year for the purposes of (general operations; building~~
10 ~~construction, remodeling, or site acquisition; or both general operations~~
11 ~~and building construction, remodeling, or site acquisition)?"~~. If a
12 majority of the votes cast upon the ballot question are in favor of such
13 tax, the county board shall authorize a tax in excess of the limits in
14 section 77-3442 or the final levy allocation in section 77-3443 but such
15 tax shall not exceed the amount stated in the ballot question. If a
16 majority of those voting on the ballot question are opposed to such tax,
17 the governing body of the political subdivision shall not impose such
18 tax.

19 ~~(2) (3)~~ In lieu of an the election pursuant to procedures in
20 subsection (1) of this section, any political subdivision subject to
21 section 77-3443, other than a Class I school district, and villages may
22 approve a levy in excess of the limits in section 77-3442 or the final
23 levy allocation provided in section 77-3443 for a period of one year at a
24 meeting of the residents of the political subdivision or village, called
25 after notice is published in a newspaper of general circulation in the
26 political subdivision or village at least twenty days prior to the
27 meeting. At least ten percent of the registered voters residing in the
28 political subdivision or village shall constitute a quorum for purposes
29 of taking action to exceed the limits or final levy allocation. A record
30 shall be made of the registered voters residing in the political
31 subdivision or village who are present at the meeting. The method of

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

11 (3)(a) ~~(4)~~ A political subdivision, other than a Class I school
12 district, may rescind or modify a previously approved excess levy
13 authority prior to its expiration by a majority of registered voters
14 voting on the issue in a primary, general, or special election at which
15 the issue is placed before the registered voters. A vote to rescind or
16 modify must be approved prior to October 10 of the fiscal year for which
17 it is to be effective.

18 (b) The governing body of the political subdivision may call for the
19 submission of the issue to the voters (i) ~~(a)~~ by passing a resolution
20 calling for the rescission or modification by a vote of at least two-
21 thirds of the members of the governing body and delivering a copy of the
22 resolution to the county clerk or election commissioner of every county
23 which contains all or part of the political subdivision or (ii) ~~(b)~~ upon
24 receipt of a petition by the county clerk or election commissioner of
25 every county containing all or part of the political subdivision
26 requesting an election signed by at least five percent of the registered
27 voters residing in the political subdivision. The resolution or petition
28 shall include the amount and the duration of the previously approved
29 excess levy authority and a statement that either such excess levy
30 authority will be rescinded or such excess levy authority will be
31 modified. If the excess levy authority will be modified, the amount and

1 duration of such modification shall be stated. The modification shall not
2 have a duration greater than five years.

3 (c) The county clerk or election commissioner shall place the issue
4 on the ballot at an election as called for in the resolution or petition
5 which is at least thirty days after receipt of the resolution or
6 petition, and the time of publication and providing a copy of the notice
7 of election required in section 32-802 shall be no later than twenty days
8 prior to the election. The election shall be held pursuant to the
9 Election Act.

10 (4) (5) For purposes of this section and section 4 of this act, when
11 the political subdivision is a sanitary and improvement district,
12 registered voter means a person qualified to vote as provided in section
13 31-735. Any election conducted under this section for a sanitary and
14 improvement district shall be conducted and counted as provided in
15 sections 31-735 to 31-735.06.

16 (5) (6) For purposes of this section and section 4 of this act, when
17 the political subdivision is a school district or a multiple-district
18 school system, registered voter includes both (a) persons qualified to
19 vote for the members of the school board of the school district which is
20 voting to exceed the maximum levy limits pursuant to this section and (b)
21 persons in those portions of any Class I district which are affiliated
22 with or a part of the school district which is voting pursuant to this
23 section, if such voter is also qualified to vote for the school board of
24 the affected Class I school district.

25 Sec. 4. (1) A vote pursuant to subsection (1) of section 77-3444 to
26 exceed the limits provided in section 77-3442 or a final levy allocation
27 as provided in section 77-3443 shall be placed on the ballot as provided
28 in this section.

29 (2) The ballot question may include any terms and conditions set
30 forth in the resolution or petition described in section 77-3444 and
31 shall include the following: "Shall (name of political subdivision) be

1 allowed to levy a property tax not to exceed cents per one
2 hundred dollars of taxable valuation in excess of the limits prescribed
3 by law until fiscal year for the purposes of (general
4 operations; building construction, remodeling, or site acquisition; or
5 both general operations and building construction, remodeling, or site
6 acquisition)?".

7 (3)(a) If the ballot question is placed on the ballot at a statewide
8 primary or general election and a majority of the votes cast upon the
9 ballot question are in favor of such tax, the ballot question is
10 approved. If the ballot question is placed on the ballot at a special
11 election and a majority of the votes cast upon the ballot question are in
12 favor of such tax, and if the number of favorable votes for such tax is
13 at least equal to one-half of the number of registered voters voting at
14 the immediately preceding statewide primary election in the political
15 subdivision plus one, the ballot question is approved.

16 (b) If the ballot question is approved, the county board shall
17 authorize a tax in excess of the limits in section 77-3442 or the final
18 levy allocation in section 77-3443 but such tax shall not exceed the
19 amount stated in the ballot question.

20 (c) If the ballot question is not approved, the governing body of
21 the political subdivision shall not impose such tax.

22 Sec. 5. Original sections 32-559 and 77-3444, Reissue Revised
23 Statutes of Nebraska, and section 77-3442, Revised Statutes Supplement,
24 2017, are repealed.