

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 523

Introduced by Albrecht, 17.

Read first time January 19, 2021

Committee: Education

1 A BILL FOR AN ACT relating to school funding; to amend sections 77-3442,
2 79-1098, 79-10,100, 79-10,101, 79-10,120, and 79-10,126, Revised
3 Statutes Cumulative Supplement, 2020; to change provisions relating
4 to certain school taxes and special funds; to provide a termination
5 date; to harmonize provisions; to repeal the original sections; and
6 to declare an emergency.

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

1 Section 1. Section 77-3442, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 77-3442 (1) Property tax levies for the support of local governments
4 for fiscal years beginning on or after July 1, 1998, shall be limited to
5 the amounts set forth in this section except as provided in section
6 77-3444.

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

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

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

25 (d) Excluded from the limitations in subdivisions (2)(a) and (2)(c)
26 of this section are (i) amounts levied to pay for current and future sums
27 agreed to be paid by a school district to certificated employees in
28 exchange for a voluntary termination of employment occurring prior to
29 September 1, 2017, (ii) amounts levied by a school district otherwise at
30 the maximum levy pursuant to subdivision (2)(a) of this section to pay
31 for current and future qualified voluntary termination incentives for

1 certificated teachers pursuant to subsection (3) of section 79-8,142 that
2 are not otherwise included in an exclusion pursuant to subdivision (2)(d)
3 of this section, (iii) amounts levied by a school district otherwise at
4 the maximum levy pursuant to subdivision (2)(a) of this section to pay
5 for seventy-five percent of the current and future sums agreed to be paid
6 to certificated employees in exchange for a voluntary termination of
7 employment occurring between September 1, 2017, and August 31, 2018, as a
8 result of a collective-bargaining agreement in force and effect on
9 September 1, 2017, that are not otherwise included in an exclusion
10 pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a
11 school district otherwise at the maximum levy pursuant to subdivision (2)
12 (a) of this section to pay for fifty percent of the current and future
13 sums agreed to be paid to certificated employees in exchange for a
14 voluntary termination of employment occurring between September 1, 2018,
15 and August 31, 2019, as a result of a collective-bargaining agreement in
16 force and effect on September 1, 2017, that are not otherwise included in
17 an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts
18 levied by a school district otherwise at the maximum levy pursuant to
19 subdivision (2)(a) of this section to pay for twenty-five percent of the
20 current and future sums agreed to be paid to certificated employees in
21 exchange for a voluntary termination of employment occurring between
22 September 1, 2019, and August 31, 2020, as a result of a collective-
23 bargaining agreement in force and effect on September 1, 2017, that are
24 not otherwise included in an exclusion pursuant to subdivision (2)(d) of
25 this section, (vi) amounts levied in compliance with sections 79-10,110
26 and 79-10,110.02, (vii) amounts levied pursuant to subsection (4) of
27 section 79-10,120, and (viii) amounts levied pursuant to subsection (3)
28 of section 79-10,120 for projects that commence prior to such amounts
29 being levied and (vii) amounts levied to pay for special building funds
30 and sinking funds established for projects commenced prior to April 1,
31 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 20 U.S.C.
7 7701 et seq., as such sections existed on January 1, 2021 ~~Title VIII of~~
8 ~~Public Law 103-382, as such title existed on September 1, 2001~~. For
9 purposes of this subdivision, federal aid school district means any
10 school district which receives ten percent or more of the revenue for its
11 general fund budget from federal government sources pursuant to 20 U.S.C.
12 7701 et seq., as such sections existed on January 1, 2021 ~~Title VIII of~~
13 ~~Public Law 103-382, as such title existed on September 1, 2001~~.

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

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

29 (3) For each fiscal year, community college areas may levy the
30 levies provided in subdivisions (2)(a) through (c) of section 85-1517, in
31 accordance with the provisions of such subdivisions. A community college

1 area may exceed the levy provided in subdivision (2)(b) of section
2 85-1517 by the amount necessary to retire general obligation bonds
3 assumed by the community college area or issued pursuant to section
4 85-1515 according to the terms of such bonds or for any obligation
5 pursuant to section 85-1535 entered into prior to January 1, 1997.

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

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

18 (c) In addition, natural resources districts located in a river
19 basin, subbasin, or reach that has been determined to be fully
20 appropriated pursuant to section 46-714 or designated as overappropriated
21 pursuant to section 46-713 by the Department of Natural Resources shall
22 also have the power and authority to levy a tax equal to the dollar
23 amount by which their restricted funds budgeted to administer and
24 implement ground water management activities and integrated management
25 activities under the Nebraska Ground Water Management and Protection Act
26 exceed their restricted funds budgeted to administer and implement ground
27 water management activities and integrated management activities for
28 FY2005-06, not to exceed three cents on each one hundred dollars of
29 taxable valuation on all of the taxable property within the district for
30 fiscal year 2006-07 and each fiscal year thereafter through fiscal year
31 2017-18.

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

5 (6)(a) Incorporated cities and villages which are not within the
6 boundaries of a municipal county may levy a maximum levy of forty-five
7 cents per one hundred dollars of taxable valuation of property subject to
8 the levy plus an additional five cents per one hundred dollars of taxable
9 valuation to provide financing for the municipality's share of revenue
10 required under an agreement or agreements executed pursuant to the
11 Interlocal Cooperation Act or the Joint Public Agency Act. The maximum
12 levy shall include amounts levied to pay for sums to support a library
13 pursuant to section 51-201, museum pursuant to section 51-501, visiting
14 community nurse, home health nurse, or home health agency pursuant to
15 section 71-1637, or statue, memorial, or monument pursuant to section
16 80-202.

17 (b) Incorporated cities and villages which are within the boundaries
18 of a municipal county may levy a maximum levy of ninety cents per one
19 hundred dollars of taxable valuation of property subject to the levy. The
20 maximum levy shall include amounts paid to a municipal county for county
21 services, amounts levied to pay for sums to support a library pursuant to
22 section 51-201, a museum pursuant to section 51-501, a visiting community
23 nurse, home health nurse, or home health agency pursuant to section
24 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

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

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

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

27 (9) Municipal counties may levy or authorize a maximum levy of one
28 dollar per one hundred dollars of taxable valuation of property subject
29 to the levy. The municipal county may allocate levy authority to any
30 political subdivision or entity subject to allocation under section
31 77-3443.

1 (10) Beginning July 1, 2016, rural and suburban fire protection
2 districts may levy a maximum levy of ten and one-half cents per one
3 hundred dollars of taxable valuation of property subject to the levy if
4 (a) such district is located in a county that had a levy pursuant to
5 subsection (8) of this section in the previous year of at least forty
6 cents per one hundred dollars of taxable valuation of property subject to
7 the levy or (b) such district had a levy request pursuant to section
8 77-3443 in any of the three previous years and the county board of the
9 county in which the greatest portion of the valuation of such district is
10 located did not authorize any levy authority to such district in such
11 year.

12 (11) A regional metropolitan transit authority may levy a maximum
13 levy of ten cents per one hundred dollars of taxable valuation of
14 property subject to the levy for each fiscal year that commences on the
15 January 1 that follows the effective date of the conversion of the
16 transit authority established under the Transit Authority Law into the
17 regional metropolitan transit authority.

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

1 (13) The limitations on tax levies provided in this section are to
2 include all other general or special levies provided by law.
3 Notwithstanding other provisions of law, the only exceptions to the
4 limits in this section are those provided by or authorized by sections
5 77-3442 to 77-3444.

6 (14) Tax levies in excess of the limitations in this section shall
7 be considered unauthorized levies under section 77-1606 unless approved
8 under section 77-3444.

9 (15) For purposes of sections 77-3442 to 77-3444, political
10 subdivision means a political subdivision of this state and a county
11 agricultural society.

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

25 Sec. 2. Section 79-1098, Revised Statutes Cumulative Supplement,
26 2020, is amended to read:

27 79-1098 Prior to the effective date of this act, whenever ~~Whenever~~
28 it is deemed necessary (1) to erect a schoolhouse or school building or
29 an addition or additions and improvements to any existing schoolhouse or
30 (2) to purchase equipment for such schoolhouse or school buildings, in
31 any school district in this state the school board may and, upon petition

1 of not less than one-fourth of the legal voters of the school district,
2 shall submit to the people of the school district at the next general
3 election or special election a proposition to vote a special annual tax
4 for that purpose of not to exceed seventeen and five-tenths cents on each
5 one hundred dollars upon the taxable value of all the taxable property in
6 such district for a term of not to exceed ten years. Such special tax may
7 be voted at any annual or special meeting of the district by fifty-five
8 percent of the legal voters attending such meeting.

9 Sec. 3. Section 79-10,100, Revised Statutes Cumulative Supplement,
10 2020, is amended to read:

11 79-10,100 The school board or board of education, upon being
12 satisfied that all the requirements of section 79-1098 have been
13 substantially complied with prior to the effective date of this act and
14 that fifty-five percent of all votes cast at the election under such
15 section are in favor of such tax, shall enter such proposition and all
16 the proceedings had thereon upon the records of the school district and
17 shall certify the special tax levy to the county clerk as other tax
18 levies.

19 Sec. 4. Section 79-10,101, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 79-10,101 The sum levied and collected under section 79-10,100 shall
22 (1) constitute a special fund for the purposes for which it was voted,
23 (2) not be used for any other purpose ~~unless otherwise authorized by a~~
24 ~~fifty-five percent majority vote of the legal voters of the school~~
25 ~~district cast at the election under section 79-1098,~~ (3) be paid over to
26 the county treasurer of the county in which the administrative office of
27 such school district is located, (4) be kept by the county treasurer and
28 treasurer of the school district separate and apart from other school
29 district funds, and (5) be subject to withdrawal as provided in section
30 79-587 or, for Class V school districts, section 79-584. ~~Any portion of~~
31 ~~such sum so levied and collected, the expenditure of which is not~~

1 ~~required to effectuate the purposes for which such sum was voted, may be~~
2 ~~transferred by the school board, at any regular or special meeting by the~~
3 ~~vote of a majority of the members attending, to the general fund of the~~
4 ~~district.~~ All funds received by the school district treasurer for such
5 purpose shall be immediately invested by such treasurer in United States
6 Government bonds or in such securities in which the state investment
7 officer may invest the permanent school funds during the accumulation of
8 such sinking fund.

9 Sec. 5. Sections 79-1098 to 79-10,101 terminate on January 1, 2031.

10 Sec. 6. Section 79-10,120, Revised Statutes Cumulative Supplement,
11 2020, is amended to read:

12 79-10,120 (1) Prior to the effective date of this act, the The
13 school board or board of education of any school district may establish a
14 special fund pursuant to this subsection for purposes of acquiring sites
15 for school buildings or teacherages, purchasing existing buildings for
16 use as school buildings or teacherages, including the sites upon which
17 such buildings are located, and the erection, alteration, equipping, and
18 furnishing of school buildings or teacherages and additions to school
19 buildings for elementary and high school grades and for no other purpose.
20 The fund shall be established from the proceeds of an annual levy, to be
21 determined by the board, of not to exceed fourteen cents on each one
22 hundred dollars upon the taxable value of all taxable property in the
23 district which shall be in addition to any other taxes authorized to be
24 levied for school purposes. Such tax shall be levied and collected as are
25 other taxes for school purposes.

26 (2)(a) On and after the effective date of this act, the school board
27 or board of education of any school district may establish a special fund
28 pursuant to this subsection for purposes of:

29 (i) Major infrastructure updates on existing structures owned or
30 leased by the school district, including: Heating, ventilation, and air
31 conditioning; roofs; safety requirements; and repairs;

1 (ii) The alteration, equipping, and furnishing of school buildings
2 or teacherages; or

3 (iii) The purchase or erection of buildings of less than twelve
4 hundred square feet of floor space used exclusively for storage or
5 utility purposes with a total value of less than one hundred thousand
6 dollars.

7 (b) Any special fund established under this subsection shall be
8 established from the proceeds of an annual tax levy, to be determined by
9 the board, not to exceed fourteen cents on each one hundred dollars of
10 taxable value in such school district. Such tax shall be levied and
11 collected in the same manner as other taxes levied for school purposes.

12 (3)(a) On and after the effective date of this act, the school board
13 or board of education of any school district may, with the approval of
14 the legal voters of such school district pursuant to subdivision (3)(c)
15 of this section, establish a special fund pursuant to this subsection for
16 purposes of:

17 (i) Acquiring sites for school buildings or teacherages;

18 (ii) Purchasing existing buildings for use as teacherages, including
19 the sites upon which such buildings are located;

20 (iii) Purchasing or entering into a lease-purchase agreement for
21 relocatable classroom buildings;

22 (iv) Erecting, purchasing, or entering into a lease-purchase
23 agreement for a new school building or an addition to a school building
24 for elementary or high school grades; or

25 (v) Completing any projects specified in subsection (2) of this
26 section that require an annual tax levy that exceeds six cents on each
27 one hundred dollars of taxable value of all taxable property in the
28 district.

29 (b) Any special fund established under this subsection shall be
30 established from the proceeds of an annual tax levy approved by the legal
31 voters of the school district pursuant to subdivision (3)(c) of this

1 section. Such tax shall be levied and collected in the same manner as
2 other taxes levied for school purposes.

3 (c) The school board or board of education of each school district
4 shall submit for approval any proposed special fund and annual tax to be
5 established pursuant to this subsection to the legal voters of such
6 school district at a general election or a special election held for such
7 purpose. Such special fund and annual tax shall not be established
8 without the approval of a majority of the legal voters voting on the
9 issue. The ballot language shall include the maximum for such annual tax
10 levy per one hundred dollars of taxable valuation and the purpose for
11 which such fund shall be used.

12 (4) A school district or a joint public agency that includes a
13 school district that has been delegated the authority to tax may continue
14 an annual tax established pursuant to this section prior to the effective
15 date of this act through school fiscal year 2029-30 for any project
16 commenced prior to the effective date of this act. Any annual tax
17 continued pursuant to this subsection shall not exceed the amount needed
18 annually to fund such project through school fiscal year 2029-30. The
19 proceeds of any such annual tax shall only be used for the project for
20 which the tax was levied. For purposes of this subsection, commenced
21 means any action taken by the school board on the record which commits
22 the board to expend district funds in planning, constructing, or carrying
23 out the project. Any tax authorized pursuant to this subsection may
24 exceed fourteen cents on each one hundred dollars of taxable value when
25 combined with all other taxes imposed pursuant to this section.

26 (5) On or before October 1, 2021, the school board or board of
27 education of any school district that levied an annual tax pursuant to
28 this section for school fiscal year 2020-21 shall file with the Auditor
29 of Public Accounts a statement describing any projects for which an
30 annual tax may be continued pursuant to subsection (4) of this section,
31 the rate levied for school fiscal year 2020-21 attributable to each such

1 project, and the anticipated completion date for each such project.

2 (6) The proceeds of any annual tax imposed pursuant to this section
3 shall be kept separate and apart from other school district funds, except
4 that such proceeds may be combined with amounts levied and collected
5 under sections 79-1098 to 79-10,101 for the same project.

6 Sec. 7. Section 79-10,126, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 79-10,126 For school fiscal year 2017-18 and each school fiscal year
9 thereafter, each Class V school district shall establish (1) for the
10 general operation of the schools, such fund as will result from an annual
11 levy of such rate of tax upon the taxable value of all the taxable
12 property in such school district as the board of education determines to
13 be necessary for such purpose, (2) funds a fund resulting from ~~an~~ annual
14 levies amount of tax to be determined by the board of education pursuant
15 to sections 79-1098 to 79-10,101 and 77-10,120 ~~of not to exceed fourteen~~
16 ~~cents on each one hundred dollars upon the taxable value of all the~~
17 ~~taxable property in the district~~ for the purpose of acquiring sites of
18 school buildings and the erection, alteration, equipping, and furnishing
19 of school buildings and additions to school buildings, which tax levies
20 levy shall be used for no other purposes, and (3) a further fund
21 resulting from an annual amount of tax to be determined by the board of
22 education to pay interest on and retiring, funding, or servicing of
23 bonded indebtedness of the district.

24 Sec. 8. Original sections 77-3442, 79-1098, 79-10,100, 79-10,101,
25 79-10,120, and 79-10,126, Revised Statutes Cumulative Supplement, 2020,
26 are repealed.

27 Sec. 9. Since an emergency exists, this act takes effect when
28 passed and approved according to law.