

LEGISLATIVE BILL 540
Passed over the Governor's veto
May 27, 2003.

Introduced by Raikes, 25

AN ACT relating to education; to amend section 85-1536.01, Reissue Revised Statutes of Nebraska, sections 13-518, 77-3442, 77-3446, 79-1008.01, 79-1022.02, and 79-1025, Revised Statutes Supplement, 2002, and sections 79-1022, 79-1026, 79-1083.03, and 79-10,110, Revised Statutes Supplement, 2002, as amended by sections 12, 15, 22, and 23, respectively, Legislative Bill 67, Ninety-eighth Legislature, First Session, 2003; to change and eliminate provisions relating to tax levy and budget authority and state aid; to harmonize provisions; to repeal the original sections; to outright repeal section 85-1537.01, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 13-518, Revised Statutes Supplement, 2002, is amended to read:

13-518. For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, (i) for fiscal years prior to fiscal year 2003-04 and after fiscal year 2004-05, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined, and (ii) for fiscal year 2003-04 and fiscal year 2004-05, the percentage increase in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, (h) the tax provided in sections 77-27,223 to 77-27,227 beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-305.15 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3007, 77-27,136, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 39-2501 to 39-2520, 47-119.01, 60-3001 to 60-3007, 77-27,136, and 77-3618,

insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933;

(d) For community colleges, state aid to community colleges paid under sections 85-1536 ~~to 85-1537.01~~ to 85-1537;

(e) For natural resources districts, state aid to natural resources districts paid pursuant to section 77-27,136; and

(f) For educational service units, state aid appropriated under section 79-1241.

Sec. 2. Section 77-3442, Revised Statutes Supplement, 2002, is amended to read:

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

(2)(a) Except as provided in subdivision (2)(b) of this section, school districts and multiple-district school systems may levy a maximum levy of (i) one dollar and ~~ten~~ five cents per one hundred dollars of taxable valuation of property subject to the levy until fiscal year 2001-02 for fiscal years 2003-04 and 2004-05 and (ii) one dollar per one hundred dollars of taxable valuation of property subject to the levy for fiscal year 2001-02 and all subsequent all fiscal years except fiscal years 2003-04 and 2004-05. Excluded from this limitation are amounts levied to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment and amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

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

(c) Beginning with school fiscal year 2002-03 through school fiscal year 2004-05, school districts and multiple-district school systems may, upon a three-fourths majority vote of the school board of the school district, the board of the unified system, or the school board of the high school district of the multiple-district school system that is not a unified system, exceed the maximum levy prescribed by subdivision (2)(a) of this section in an amount equal to the net difference between the amount of state aid that would have been provided under the Tax Equity and Educational Opportunities Support Act without the changes made by Laws 2002, LB 898, for the ensuing school fiscal year for the school district or multiple-district school system and the amount provided under the act as amended by Laws 2002, LB 898. The State Department of Education shall certify to the school districts and multiple-district school systems the amount by which the maximum levy may be exceeded pursuant to subdivision (2)(c) of this section on or before May 15, 2002, for school fiscal year 2002-03, ~~February 15~~ June 30, 2003, for school fiscal year 2003-04, and February 15, 2004, for school fiscal year 2004-05.

(3) Community colleges may levy a maximum levy on each one hundred dollars of taxable property subject to the levy of ~~(a) eight cents for fiscal year 1998-99 and fiscal year 1999-2000 and (b) seven cents for fiscal year 2000-01~~ and each fiscal year thereafter, plus amounts allowed under subsection (7) of section 85-1536.01.

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

(5) Educational service units may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant

to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

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

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

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

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

(10) Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

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

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

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

Sec. 3. Section 77-3446, Revised Statutes Supplement, 2002, is amended to read:

77-3446. Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing

board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2003-04 and 2004-05 is zero. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Sec. 4. Section 79-1008.01, Revised Statutes Supplement, 2002, is amended to read:

79-1008.01. (1) Except as provided in subsection (2) of this section and sections 79-1008.02 to 79-1010, each local system shall receive equalization aid in the amount that the total formula need of each local system, as determined pursuant to sections 79-1007.01 and 79-1007.02, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1018.01.

(2) Except as provided in section 79-1008.02, a local system shall not receive state aid for any school fiscal year, except school fiscal years 2002-03, 2003-04, and 2004-05, which is less than an amount equal to the difference of eighty-five percent of the amount of aid certified in the preceding school fiscal year minus an amount equal to any increase in the adjusted valuation between the adjusted valuation used for the certification of aid in the preceding school fiscal year and the adjusted valuation used for the aid being calculated multiplied by the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444.

(3) Except as provided in section 79-1008.02, a local system shall not receive state aid for school fiscal years 2002-03, 2003-04, or 2004-05 which is less than an amount equal to the difference of eighty-three and three-fourths percent of the amount of aid certified in the preceding school fiscal year minus an amount equal to any increase in the adjusted valuation between the adjusted valuation used for the certification of aid in the preceding school fiscal year and the adjusted valuation used for the aid being calculated multiplied by the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444.

(4) Except as provided in subsection (2) or (3) of this section, no local system may receive equalization aid such that, when total aid is added to a levy of ~~one dollar for state aid to be distributed in school fiscal years 1998-99 and 1999-00 or of ninety cents for state aid to be distributed in school fiscal year 2000-01~~ and each school fiscal year thereafter equal to the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444, less ten cents, multiplied by the local system's adjusted valuation, divided by one hundred, would result in total local system revenue from state aid plus property tax receipts which exceeds the total of:

(a) The sum of state aid, receipts from other school districts related to annexation, and property tax receipts received by the local system during the preceding school fiscal year multiplied by the total of (i) 1.01 plus (ii) the applicable allowable growth rate for the local system calculated pursuant to section 79-1026 as determined for the school fiscal year immediately preceding the school fiscal year when aid is to be distributed plus (iii) the percentage growth in formula students from the certification of state aid for the immediately preceding school fiscal year to the formula students for the certification of state aid for the current school fiscal year, except that the percentage growth shall not be less than zero;

(b) Unused budget authority authorized pursuant to section 79-1030;

(c) The difference between the other actual receipts included in local system formula resources for the certification of state aid in the preceding school fiscal year and other actual receipts included in local system formula resources for the certification of state aid for the current school fiscal year, except that such difference shall not be less than zero; and

(d) The absolute value of any negative prior year adjustment pursuant to section 79-1065.

For local systems that have reorganized, state aid, property tax receipts, and number of formula students shall be attributed based on valuation. The revenue from property tax receipts shall be calculated by multiplying the reported general fund common levy by the assessed valuation subject to the levy divided by one hundred.

(5) For all school fiscal years except school fiscal years 2002-03, 2003-04, and 2004-05, the aid that is not distributed through equalization based on subsection (4) of this section shall be distributed through this subsection. Local systems qualify for distribution under this subsection if

they have nine hundred or less formula students and adjusted general fund operating expenditures per formula student less than the average for all local systems with nine hundred or less formula students. The aid shall be distributed proportionally to qualifying districts based on the dollar amount each local system's calculated state aid plus the product of a levy of one dollar multiplied by the assessed valuation divided by one hundred is below ninety percent of state aid plus property tax receipts received by the local system during the preceding school fiscal year. No system shall receive aid pursuant to this subsection such that the calculated state aid plus the product of a levy of one dollar multiplied by the assessed valuation divided by one hundred is ninety percent or more of state aid plus property tax receipts received by the local system during the preceding school fiscal year. Any aid available for distribution pursuant to this subsection that is not distributed pursuant to this subsection shall be distributed as equalization aid.

(6) For school fiscal years 2002-03, 2003-04, and 2004-05, the aid that is not distributed through equalization based on subsection (3) of this section shall be distributed through this subsection. Local systems qualify for distribution under this subsection if they have nine hundred or less formula students and adjusted general fund operating expenditures per formula student less than the average for all local systems with nine hundred or less formula students. The aid shall be distributed proportionally to qualifying districts based on the dollar amount each local system's calculated state aid plus the product of a levy of ~~one dollar~~ equal to the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444, multiplied by the assessed valuation ~~divided by one hundred~~ is below eighty-eight and three-fourths percent of state aid plus property tax receipts received by the local system during the preceding school fiscal year. No system shall receive aid pursuant to this subsection such that the calculated state aid plus the product of a levy of ~~one dollar~~ equal to the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444, multiplied by the assessed valuation ~~divided by one hundred~~ is eighty-eight and three-fourths percent or more of state aid plus property tax receipts received by the local system during the preceding school fiscal year. Any aid available for distribution pursuant to this subsection that is not distributed pursuant to this subsection shall be distributed as equalization aid.

Sec. 5. Section 79-1022, Revised Statutes Supplement, 2002, as amended by section 12, Legislative Bill 67, Ninety-eighth Legislature, First Session, 2003, is amended to read:

79-1022. (1) On or before ~~February 5~~ June 15, 2003, and on or before February 1 for each year thereafter, the department shall determine the amounts to be distributed to each local system and each district pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each district. The amount to be distributed to each district from the amount certified for a local system shall be proportional based on the weighted formula students attributed to each district in the local system. On or before ~~February 5~~ June 15, 2003, and on or before February 1 for each year thereafter, the department shall report the necessary funding level to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. Certified state aid amounts shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in subsection (3) of this section and subsection (6) of section 79-1016 and section 79-1033, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a school district is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year.

(3) For school fiscal year 2002-03, except as provided in subsection (6) of section 79-1016 and section 79-1033, the amounts certified pursuant to subsection (1) of this section shall be distributed according to the payment schedule in this subsection on the last business day of each month listed, except that when a school district is to receive ten thousand dollars or less, such payment shall be one lump-sum payment on the last business day of

December. The amount distributed each month shall be equal to the amount certified pursuant to subsection (1) of this section multiplied by the applicable percentage, rounded to the nearest cent. The percentages are:

(a) For September, October, November, and December, seven and seven-tenths percent;

(b) For January, February, March, and April, ten percent; and

(c) For May and June, fourteen and six-tenths percent.

Sec. 6. Section 79-1022.02, Revised Statutes Supplement, 2002, is amended to read:

79-1022.02. Notwithstanding any other provision of law, the certification of state aid pursuant to section 79-1022 to be paid to school districts during school year ~~2002-03~~ is 2003-04, the certification of applicable allowable growth rates pursuant to section 79-1026 for school fiscal year 2003-04, and the certifications of Class I school district allowable general fund budgets of expenditures pursuant to section 79-1083.03 for school fiscal year 2003-04 are null and void. State aid to be paid during such school year and the certifications pursuant to section 79-1022 shall be recertified on or before ~~May 1, 2002~~ June 15, 2003, using data sources as they existed on February 1, ~~2002~~ 2003.

Sec. 7. Section 79-1025, Revised Statutes Supplement, 2002, is amended to read:

79-1025. The basic allowable growth rate for general fund expenditures other than expenditures for special education shall be the base limitation established under section 77-3446 and the allowable growth range shall be from the base limitation to ~~two~~ three percent above the base limitation. The budget authority for special education for all classes of school districts shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority and funds generated pursuant to such budget authority shall be used only for special education expenditures.

Sec. 8. Section 79-1026, Revised Statutes Supplement, 2002, as amended by section 15, Legislative Bill 67, Ninety-eighth Legislature, First Session, 2003, is amended to read:

79-1026. On or before ~~February 5~~ June 15, 2003, and on or before February 1 for each year thereafter, the department shall determine and certify to each Class II, III, IV, V, or VI district an applicable allowable growth rate carried out at least four decimal places for each local system as follows:

(1) The department shall establish a target budget level range of general fund operating expenditure levels for each school fiscal year for each local system which shall begin at twenty percent less than the local system's formula need and end at the local system's formula need. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section 79-1025, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in such section such that the lower end of the range shall be assigned the maximum allowable growth rate and the higher end of the range shall be assigned the basic allowable growth rate; and

(2) For each school fiscal year, each local system's general fund operating expenditures shall be compared to its target budget level along the range described in subdivision (1) of this section to arrive at an applicable allowable growth rate as follows: If each local system's general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section 79-1025. If each local system's general fund operating expenditures are greater than the higher end of the range, the local system's allowable growth rate shall be the basic allowable growth rate identified in such section. If each local system's general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear interpolation calculation between the end points of the range to arrive at the applicable allowable growth rate for the local system.

Sec. 9. Section 79-1083.03, Revised Statutes Supplement, 2002, as amended by section 22, Legislative Bill 67, Ninety-eighth Legislature, First Session, 2003, is amended to read:

79-1083.03. (1)(a) If the primary high school district designated pursuant to section 79-1083.02 is a Class VI district, the Class I district's total allowable general fund budget of expenditures minus the special education budget of expenditures shall be determined by the school board of such Class VI district and shall be certified to the Class I district on or before June 24, 2003, and on or before March 1 each year thereafter for the following school fiscal year.

(b) The Class VI primary high school district shall certify the

total allowable general fund budget of expenditures minus the special education budget of expenditures for the Class I district to the State Department of Education on or before August 1, 2003, and on or before April 20 each year thereafter.

(2) If the primary high school district is not a Class VI district, the Class I district's total allowable general fund budget of expenditures minus the special education budget of expenditures shall be determined by the department as follows and certified on or before ~~February 5~~ June 15, 2003, and on or before February 1 each year thereafter, for the following school fiscal year:

(a) The total allowable general fund budget of expenditures minus the special education budget of expenditures for the Class I district in the school fiscal year immediately preceding the school fiscal year for which the budget is prepared shall be divided by the formula students in the Class I district as defined in section 79-1003, and the result shall be increased by the applicable allowable growth rate for the primary high school district's local system for the ensuing school fiscal year calculated pursuant to section 79-1026 as determined on or before ~~February 5~~ June 15, 2003, and on or before February 1 each year thereafter, of the school fiscal year immediately preceding the school fiscal year for which the budget is prepared;

(b) The total allowable general fund budget of expenditures minus the special education budget of expenditures for the primary high school district in the school fiscal year immediately preceding the school fiscal year for which the budget is prepared shall be divided by the formula students as defined in section 79-1003 in the primary high school district weighted by the grade weighting factors contained in subdivision (1)(a) of section 79-1007.01, and the result shall be multiplied by the kindergarten through grade eight formula students as defined in section 79-1003 weighted by the grade weighting factors contained in subdivision (1)(a) of section 79-1007.01 to calculate the total allowable general fund budget of expenditures minus the special education budget of expenditures for kindergarten through grade eight in the primary high school district. The total allowable general fund budget of expenditures minus the special education budget of expenditures for kindergarten through grade eight shall be divided by the kindergarten through grade eight formula students without weighting. The result shall be increased by the applicable allowable growth rate for the primary high school district's local system for the ensuing school fiscal year calculated pursuant to section 79-1026 as determined on or before ~~February 5~~ June 15, 2003, and on or before February 1 each year thereafter, of the school fiscal year immediately preceding the school fiscal year for which the budget is prepared;

(c) The amounts calculated in subdivisions (2)(a) and (2)(b) of this section shall be summed and the result divided by two to arrive at the total allowable general fund budget of expenditures minus the special education budget of expenditures per formula student for the Class I district; and

(d) The total allowable general fund budget of expenditures minus the special education budget of expenditures per formula student for the Class I district shall be multiplied by the formula students as defined in section 79-1003 for the Class I district as used by the department for certification of the ensuing school fiscal year's state aid, and the result shall be the total allowable general fund budget of expenditures minus the special education budget of expenditures for the Class I district for the ensuing school fiscal year except as provided in subsection (3) of this section.

(3)(a) The school board of the Class I district may, on or before July 1, 2003, and on or before March 10 each year thereafter, submit a request to exceed the total allowable general fund budget of expenditures minus the special education budget of expenditures to all the school boards of the high school district or districts with which the Class I district is affiliated or of which it is a part. For Class I districts to exceed the total allowable general fund budget of expenditures minus the special education budget of expenditures, the total general fund budget of expenditures request shall be approved by high school districts, including the primary high school district, such that the portions of the Class I district that are affiliated with or part of the approving high school districts comprise at least two-thirds of the assessed valuation of the Class I district. Such request shall specify the total general fund budget of expenditures, broken down by expenditures for special education, for regular education, and for special grant funds as defined in section 79-1003, for which the Class I district seeks authority.

(b) The high school district shall approve or deny the request on or before July 15, 2003, and on or before April 10 each year thereafter following the receipt of such request and shall forward written notification to the Class I district of approval or denial. A request for additional budget authority shall be considered approved if (i) no action is taken by the high

school district or (ii) the high school district fails to send written notification to the Class I district of the denial of a request for additional budget authority.

(4) The school board of a Class I district may, after October 15 of each year, amend the general fund budget of expenditures (a) by increasing the special education budget of expenditures, (b) for any special grant funds as defined in section 79-1003 received any time during a school fiscal year, or (c) for current fiscal year expenditures the board deems essential if the expenditures could not reasonably have been anticipated at the time the budget for the current year was adopted. A copy of the revised budget shall be filed pursuant to subsection (4) of section 13-511 and section 79-1024.

(5) All Class I districts shall certify the items required by subsection (1) of section 13-508 to all of their high school districts on or before August 1.

(6) All primary high school districts shall certify to the department and all other affected districts, on or before August 1, 2003, and on or before April 20 each year thereafter, the approved total general fund budget of expenditures for a Class I district when the Class I district has requested to exceed its certified budget authority and the request has been approved.

Sec. 10. Section 79-10,110, Revised Statutes Supplement, 2002, as amended by section 23, Legislative Bill 67, Ninety-eighth Legislature, First Session, 2003, is amended to read:

79-10,110. (1) ~~A school board, after~~ After making a determination that an actual or potential environmental hazard or accessibility barrier exists, that a life safety code violation exists, or that expenditures are needed for indoor air quality or mold abatement and prevention within the school buildings or grounds under its control, a school board may make and deliver to the county clerk of such county in which any part of the school district is situated, not later than the date provided in section 13-508, an itemized estimate of the amounts necessary to be expended for the abatement of such environmental hazard, for ~~accessibility barrier elimination, or for modifications for life safety code violations, indoor air quality, or mold abatement and prevention in its~~ such school buildings or grounds. The board shall conduct a public hearing on the itemized estimate prior to presenting such estimate to the county clerk. Notice of the place and time of such hearing shall, at least five days prior to the date set for hearing, be published in a newspaper of general circulation within the school district. The board shall designate the particular environmental hazard abatement project, ~~accessibility barrier elimination project, or modification for life safety code violations, indoor air quality, or mold abatement and prevention~~ for which the tax levy provided for by this section will be expended, the period of years, which shall not exceed ten years, for which the tax will be levied for such project, and the amount of the levy for each year of the period.

(2) After a public hearing, a school board may undertake any qualified capital purpose in any qualified zone academy under its control and may levy a tax as provided in this section to repay a qualified zone academy bond issued for such undertaking. The board shall designate the particular qualified capital purpose for which the qualified zone academy bond was issued and for which the tax levy provided for by this section will be expended, the period of years, not exceeding fifteen, for which the tax will be levied for such qualified zone academy bond, and the amount of the levy for each year of the period. The hearing required by this subsection shall be held only after notice of such hearing has been published for three consecutive weeks prior to the hearing in a legal newspaper published or of general circulation in the school district.

(3) The board may designate more than one project under subsection (1) of this section or qualified capital purpose under subsection (2) of this section and levy a tax pursuant to this section for each such project or qualified capital purpose, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each such levy will not exceed the limitations specified in this section. Each levy for a project or qualified capital purpose which is authorized by this section may be imposed for such duration as the board specifies, notwithstanding the contemporaneous existence or subsequent imposition of any other levy for another project or qualified capital purpose imposed pursuant to this section and notwithstanding the subsequent issuance by the district of bonded indebtedness payable from its general fund levy.

(4) The county clerk shall levy such taxes, not to exceed five and one-fifth cents per one hundred dollars of taxable valuation for Class II, III, IV, V, and VI districts, and not to exceed the limits set for Class I

districts in section 79-10,124, on the taxable property of the district necessary to (a) cover the environmental hazard abatement or accessibility barrier elimination project costs or costs for modification for life safety code violations, indoor air quality, or mold abatement and prevention itemized by the board pursuant to subsection (1) of this section and (b) repay any qualified zone academy bonds pursuant to subsection (2) of this section. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the treasurer of the district and used to cover the project costs.

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

(6) Each board which submits an itemized estimate shall establish an environmental hazard abatement and accessibility barrier elimination project account, a life safety code modification project account, an indoor air quality project account, or a mold abatement and prevention project account, and each board which undertakes a qualified capital purpose shall establish a qualified capital purpose undertaking account, within the qualified capital purpose undertaking fund. Taxes collected pursuant to this section shall be credited to the appropriate account to cover the project or undertaking costs. Such estimates may be presented to the county clerk and taxes levied accordingly.

(7) For purposes of this section:

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

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

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

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

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

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

(g) Modification for mold abatement and prevention includes, but is not limited to, any inspection and testing regarding mold abatement and

prevention, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate mold problems, any restoration or replacement of material or related architectural and engineering services, and any other action to reduce or eliminate mold problems or to enhance air quality conditions in new or existing school buildings or on school grounds under the control of a school board;

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

~~(f)~~ (i) Qualified zone academy has the meaning found in 26 U.S.C. 1397E(d)(4), as such section existed on April 6, 2001;

~~(g)~~ (j) Qualified zone academy allocation means the allocation of the qualified zone academy bond limitation by the State Department of Education to the qualified zone academies pursuant to 26 U.S.C. 1397E(e)(2), as such section existed on April 6, 2001; and

~~(h)~~ (k) Qualified zone academy bond has the meaning found in 26 U.S.C. 1397E(d)(1), as such section existed on May 8, 2001.

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

(9) For the purpose of paying amounts necessary for the abatement of environmental hazards, ~~and accessibility barrier elimination, or modifications for life safety code violations, indoor air quality, or mold abatement and prevention,~~ the board may borrow money and issue bonds and other evidences of indebtedness of the district, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the district of amounts received in respect of the tax levy provided for by this section and any other funds of the district available therefor. Bonds and other evidences of indebtedness issued by a district pursuant to this subsection shall not constitute a general obligation of the district or be payable from any portion of its general fund levy.

(10) The total principal amount of bonds for modifications to correct life safety code violations, for indoor air quality problems, or for mold abatement and prevention which may be issued pursuant to this section shall not exceed the total amount specified in the itemized estimate described in subsection (1) of this section.

(11) The total principal amount of qualified zone academy bonds which may be issued pursuant to this section for qualified capital purposes with respect to a qualified zone academy shall not exceed the qualified zone academy allocation granted to the board by the department. The total amount that may be financed by qualified zone academy bonds pursuant to this section for qualified purposes with respect to a qualified zone academy shall not exceed seven and one-half million dollars statewide in a single year. In any year that the Nebraska qualified zone academy allocations exceed seven and one-half million dollars for qualified capital purposes to be financed with qualified zone academy bonds issued pursuant to this section, (a) the department shall reduce such allocations proportionally such that the statewide total for such allocations equals seven and one-half million dollars and (b) the difference between the Nebraska allocation and seven and one-half million dollars shall be available to qualified zone academies for requests that will be financed with qualified zone academy bonds issued without the benefit of this section.

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

Sec. 11. Section 85-1536.01, Reissue Revised Statutes of Nebraska, is amended to read:

85-1536.01. (1) The Community College Property Tax Relief and Equalization Program is created. The Legislature recognizes the need for a state and local partnership for the funding of community colleges. The Legislature also understands that some community college areas have a better ability than other areas to raise revenue through property taxes because of larger and growing valuation bases.

(2) It is the intent of the Legislature to appropriate funds beginning with fiscal year 1998-99 to provide property tax relief to those areas that (a) have levied the maximum allowable property tax levy as described in subsection (1) of section 85-1517 and cannot generate forty percent of their operating revenue or (b) do not receive forty percent of their operating revenue from state aid pursuant to subdivisions (1)(a) and (b) of section 85-1536 and levy the maximum allowable property tax levy as described in subsection (1) of section 85-1517 or the greater of a minimum

levy of six and three-tenths cents per one hundred dollars of valuation for fiscal year 1998-99 and fiscal year 1999-00 and five and three-tenths cents per one hundred dollars of valuation for fiscal year 2000-01 and all subsequent fiscal years or a levy that raises forty percent of its operating revenue.

(3) Each eligible community college area which qualifies pursuant to subdivision (2)(a) of this section shall receive funds equal to the difference between the property tax revenue raised and forty percent of its operating revenue. Each eligible community college area which qualifies pursuant to subdivision (2)(b) of this section shall receive funds equal to the difference between state aid pursuant to subdivisions (1)(a) and (b) of section 85-1536 and forty percent of its operating revenue, and any community college area which raises in excess of forty percent of its operating revenue from property tax shall have such excess serve as an offset to payments received from this program. Any community college area which qualifies under both subdivisions (2)(a) and (b) of this section shall receive funds as calculated for both subdivisions. The base year for calculating forty percent of operating revenue shall be fiscal year 1997-98, with future adjustments reflecting increases equal to two percent plus the percentage increase, if any, in full-time equivalent students eligible for state aid from the second year to the first year preceding the year for which the aid is being determined.

Any community college area which had an operational property tax levy that was one hundred thirty-five percent or more of the statewide average operational community college property tax levy for fiscal year 1997-98 shall, for purposes of state aid distribution beginning in fiscal year 1999-00 and for each fiscal year thereafter, have added to its fiscal year 1997-98 base year revenue three-fourths of its unused budget authority as established under section 13-521 for fiscal year 1998-99. Each community college area shall submit its levy and valuation certification to the Department of Administrative Services by September 20 each year. After verifying valuations and general fund revenue amounts established from FTE-REU audits, which general fund revenue amounts are derived from the uniform budget form, the department shall distribute funds to those community college areas that have qualified for property tax relief and equalization.

(4) If the Legislature appropriates more money for aid to community colleges than is necessary to fully fund the provisions of sections 85-1536 to 85-1537 for any fiscal year, the excess money shall be allocated to each community college area in the same proportion as the community college area's property valuation is to the state's total property valuation.

(5) If the Legislature fails to appropriate adequate funds for the program, the funds appropriated shall be apportioned on a pro rata basis to the areas that qualify.

~~(4)~~ (6) The department shall distribute the total of such appropriated and allocated funds to the boards in nine as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning in October of each year.

(7) For fiscal year 2003-04 and fiscal year 2004-05, each community college area that meets the requirements of subsection (2) of this section may levy an additional amount sufficient to generate revenue equal to the community college's share of any deficiency in the appropriation to community colleges upon the affirmative vote of at least three-fourths of the board of governors for the community college area. The property tax levy provided for in this subsection is in addition to the maximum allowable property tax levy described in subsection (1) of section 85-1517 and the amount allowed by subsection (3) of section 77-3442.

Sec. 12. Original section 85-1536.01, Reissue Revised Statutes of Nebraska, sections 13-518, 77-3442, 77-3446, 79-1008.01, 79-1022.02, and 79-1025, Revised Statutes Supplement, 2002, and sections 79-1022, 79-1026, 79-1083.03, and 79-10,110, Revised Statutes Supplement, 2002, as amended by sections 12, 15, 22, and 23, respectively, Legislative Bill 67, Ninety-eighth Legislature, First Session, 2003, are repealed.

Sec. 13. The following section is outright repealed: Section 85-1537.01, Reissue Revised Statutes of Nebraska.

Sec. 14. Since an emergency exists, this act takes effect when passed and approved according to law.