

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 974

Introduced by Avery, 28.

Read first time January 19, 2010

Committee: Education

A BILL

1 FOR AN ACT relating to learning communities; to amend sections
2 77-3442 and 79-2111, Reissue Revised Statutes of
3 Nebraska, and section 79-2104, Revised Statutes
4 Supplement, 2009; to change provisions relating to use
5 of a tax levy as prescribed; to harmonize provisions;
6 to repeal the original sections; and to declare an
7 emergency.

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

1 Section 1. Section 77-3442, Reissue Revised Statutes of
2 Nebraska, is amended to read:

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

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

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

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

1 (2)(g) of this section for such learning community.

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

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

22 (f) For school fiscal year 2002-03 through school fiscal
23 year 2007-08, school districts and multiple-district school systems
24 may, upon a three-fourths majority vote of the school board of
25 the school district, the board of the unified system, or the

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

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

20 (h) For each fiscal year, learning communities may levy
21 a maximum levy of five cents on each one hundred dollars of
22 taxable property subject to the levy for ~~elementary learning center~~
23 ~~facilities and for up to fifty percent of the estimated cost for~~
24 ~~capital~~ any uses or projects approved by the learning community
25 coordinating council, including, but not limited to, projects

1 described in ~~pursuant to~~ section 79-2111.

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

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

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

19 (c) In addition, natural resources districts located in
20 a river basin, subbasin, or reach that has been determined to
21 be fully appropriated pursuant to section 46-714 or designated
22 as overappropriated pursuant to section 46-713 by the Department
23 of Natural Resources shall also have the power and authority to
24 levy a tax equal to the dollar amount by which their restricted
25 funds budgeted to administer and implement ground water management

1 activities and integrated management activities under the Nebraska
2 Ground Water Management and Protection Act exceed their restricted
3 funds budgeted to administer and implement ground water management
4 activities and integrated management activities for FY2005-06, not
5 to exceed three cents on each one hundred dollars of taxable
6 valuation on all of the taxable property within the district for
7 fiscal year 2006-07 and each fiscal year thereafter through fiscal
8 year 2011-12.

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

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

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

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

20 (8) Counties may levy or authorize a maximum levy of
21 fifty cents per one hundred dollars of taxable valuation of
22 property subject to the levy, except that five cents per one
23 hundred dollars of taxable valuation of property subject to the
24 levy may only be levied to provide financing for the county's
25 share of revenue required under an agreement or agreements executed

1 pursuant to the Interlocal Cooperation Act or the Joint Public
2 Agency Act. The maximum levy shall include amounts levied to pay
3 for sums to support a library pursuant to section 51-201 or museum
4 pursuant to section 51-501. The county may allocate up to fifteen
5 cents of its authority to other political subdivisions subject
6 to allocation of property tax authority under subsection (1) of
7 section 77-3443 and not specifically covered in this section to
8 levy taxes as authorized by law which do not collectively exceed
9 fifteen cents per one hundred dollars of taxable valuation on any
10 parcel or item of taxable property. The county may allocate to
11 one or more other political subdivisions subject to allocation
12 of property tax authority by the county under subsection (1) of
13 section 77-3443 some or all of the county's five cents per one
14 hundred dollars of valuation authorized for support of an agreement
15 or agreements to be levied by the political subdivision for the
16 purpose of supporting that political subdivision's share of revenue
17 required under an agreement or agreements executed pursuant to the
18 Interlocal Cooperation Act or the Joint Public Agency Act. If an
19 allocation by a county would cause another county to exceed its
20 levy authority under this section, the second county may exceed
21 the levy authority in order to levy the amount allocated. Property
22 tax levies for costs of reassumption of the assessment function
23 pursuant to section 77-1340 or 77-1340.04 are not included in the
24 levy limits established in this subsection for fiscal years 2010-11
25 through 2013-14.

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

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

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

25 (12) Tax levies in excess of the limitations in this

1 section shall be considered unauthorized levies under section
2 77-1606 unless approved under section 77-3444.

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

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

20 Sec. 2. Section 79-2104, Revised Statutes Supplement,
21 2009, is amended to read:

22 79-2104 A learning community coordinating council shall
23 have the authority to:

24 (1) Levy a common levy for the general funds of member
25 school districts pursuant to sections 77-3442 and 79-1073;

1 (2) Levy a common levy for the special building funds
2 of member school districts pursuant to sections 77-3442 and
3 79-1073.01;

4 (3) Levy for ~~capital~~ uses and projects approved by
5 the learning community coordinating council pursuant to sections
6 77-3442 and 79-2111;

7 (4) Collect, analyze, and report data and information,
8 including, but not limited to, information provided by a school
9 district pursuant to subsection (5) of section 79-201;

10 (5) Approve focus schools and focus programs to be
11 operated by member school districts;

12 (6) Adopt, approve, and implement a diversity plan which
13 shall include open enrollment and may include focus schools, focus
14 programs, magnet schools, and pathways pursuant to section 79-2110;

15 (7) Administer the open enrollment provisions in section
16 79-2110 for the learning community as part of a diversity plan
17 developed by the council to provide educational opportunities which
18 will result in increased diversity in schools across the learning
19 community;

20 (8) Annually conduct school fairs to provide students and
21 parents the opportunity to explore the educational opportunities
22 available at each school in the learning community and develop
23 other methods for encouraging access to such information and
24 promotional materials;

25 (9) Develop and approve reorganization plans for

1 submission pursuant to the Learning Community Reorganization Act;

2 (10) Establish and administer elementary learning centers
3 through achievement subcouncils pursuant to sections 79-2112 to
4 79-2114;

5 (11) Administer the learning community funds distributed
6 to the learning community pursuant to section 79-2111;

7 (12) Approve or disapprove poverty plans and limited
8 English proficiency plans for member school districts through
9 achievement subcouncils established under section 79-2117;

10 (13) Establish a procedure for receiving community input
11 and complaints regarding the learning community; and

12 (14) Establish a procedure to assist parents, citizens,
13 and member school districts in accessing an approved center
14 pursuant to the Dispute Resolution Act to resolve disputes
15 involving member school districts or the learning community. Such
16 procedure may include payment by the learning community for some
17 mediation services.

18 Sec. 3. Section 79-2111, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 79-2111 (1) A learning community may levy a maximum
21 levy pursuant to subdivision (2)(h) of section 77-3442 for
22 any projects it approves, including, but not limited to, the
23 purchase, construction, or remodeling of elementary learning center
24 facilities ~~and~~ or up to fifty percent of the estimated costs for
25 capital projects approved pursuant to this section. The proceeds

1 from such levy shall be used for elementary learning center
2 facilities, ~~and~~ for one-time reductions of the bonded indebtedness
3 required for approved projects up to fifty percent of the estimated
4 cost of the approved project, and for other projects approved
5 by the learning community coordinating council. The funds used
6 for reductions of bonded indebtedness shall be transferred to the
7 school district for which the project was approved and shall be
8 deposited in such school district's special building fund for use
9 on such project.

10 (2) The learning community may approve pursuant to this
11 section funding for capital projects which will include the
12 purchase, construction, or remodeling of facilities for a focus
13 school or program designed to meet the requirements of section
14 79-769. Such approval shall include an estimated cost for the
15 project and shall state the amount that will be provided by the
16 learning community for such project.

17 (3) If, within the ten years following receipt of the
18 funding for a capital project pursuant to this section, a school
19 district receiving such funding uses the facility purchased,
20 constructed, or remodeled with such funding for purposes other
21 than those stated to qualify for the funds, the school district
22 shall repay such funds to the learning community with interest at
23 the rate prescribed in section 45-104.02 accruing from the date
24 the funds were transferred to the school district's building fund
25 as of the last date the facility was used for such purpose as

1 determined by the learning community coordinating council or the
2 date that the learning community coordinating council determines
3 that the facility will not be used for such purpose or that
4 such facility will not be purchased, constructed, or remodeled
5 for such purpose. Interest shall continue to accrue on outstanding
6 balances until the repayment has been completed. The remaining
7 terms of repayment shall be determined by the learning community
8 coordinating council. The learning community coordinating council
9 may waive such repayment if the facility is used for a different
10 focus school or program for a period of time that will result in
11 the use of the facility for qualifying purposes for a total of at
12 least ten years.

13 Sec. 4. Original sections 77-3442 and 79-2111, Reissue
14 Revised Statutes of Nebraska, and section 79-2104, Revised Statutes
15 Supplement, 2009, are repealed.

16 Sec. 5. Since an emergency exists, this act takes effect
17 when passed and approved according to law.