

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 634**

Introduced by Adams, 24.

Read first time January 19, 2011

Committee: Education

A BILL

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

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

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

22           (2) After a public hearing, a school board may undertake  
23 any qualified capital purpose in any qualified zone academy under its  
24 control and may levy a tax as provided in this section to repay a  
25 qualified zone academy bond issued for such undertaking. The board

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

13 (3) After a public hearing, a school board may undertake  
14 construction of a new public school facility or the acquisition of  
15 land on which such a facility is to be constructed or any expansion,  
16 rehabilitation, modernization, renovation, or repair of any existing  
17 school facilities under its control and may levy a tax to repay any  
18 American Recovery and Reinvestment Act of 2009 bond. The board shall  
19 designate: (a) The particular project or projects for which the bond  
20 will be issued and for which the tax levy provided by this section  
21 will be expended; (b) the period of years for which the tax will be  
22 levied to repay such bond, not exceeding the maximum term established  
23 pursuant to federal law for the type of bond as permitted by the  
24 federal American Recovery and Reinvestment Act of 2009 or, if no such  
25 term is established, thirty years; and (c) the amount of the levy for

1 each year of such period. Prior to the public hearing, the school  
2 board shall prepare an itemized estimate of the amounts necessary to  
3 be expended for the project or projects. The hearing required by this  
4 subsection shall be held only after notice of such hearing has been  
5 published for three consecutive weeks prior to the hearing in a legal  
6 newspaper published or of general circulation in the school district.  
7 The bond to be issued under this subsection may consist of any type  
8 or form of bond permitted by the federal American Recovery and  
9 Reinvestment Act of 2009 except qualified zone academy bonds, the use  
10 of which is authorized pursuant to subsection (2) of this section.

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

1 Reinvestment Act of 2009 purpose imposed pursuant to this section and  
2 notwithstanding the subsequent issuance by the district of bonded  
3 indebtedness payable from its general fund levy.

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

19           (6) If such board operates grades nine through twelve as  
20 part of an affiliated school system, it shall designate the fraction  
21 of the project or undertaking to be conducted for the benefit of  
22 grades nine through twelve. Such fraction shall be raised by a levy  
23 placed upon all of the taxable value of all taxable property in the  
24 affiliated school system pursuant to subsection (2) of section  
25 79-1075. The balance of the project or undertaking to be conducted

1 for the benefit of grades kindergarten through eight shall be raised  
2 by a levy placed upon all of the taxable value of all taxable  
3 property in the district which is governed by such board. The  
4 combined rate for both levies in the high school district, to be  
5 determined by such board, shall not exceed five and one-fifth cents  
6 on each one hundred dollars of taxable value.

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

21 (8) For purposes of this section:

22 (a) Abatement includes, but is not limited to, any  
23 inspection and testing regarding environmental hazards, any  
24 maintenance to reduce, lessen, put an end to, diminish, moderate,  
25 decrease, control, dispose of, or eliminate environmental hazards,

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

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

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

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

25 (e) American Recovery and Reinvestment Act of 2009

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

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

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

20 (h) Modification for life safety code violation includes,  
21 but is not limited to, any inspection and testing regarding life  
22 safety codes, any maintenance to reduce, lessen, put an end to,  
23 diminish, moderate, decrease, control, dispose of, or eliminate life  
24 safety hazards, any restoration or replacement of material or  
25 property, any related architectural and engineering services, and any



1 other action to reduce or eliminate life safety hazards in new or  
2 existing school buildings or on school grounds under the control of a  
3 school board;

4 (i) Modification for mold abatement and prevention  
5 includes, but is not limited to, any inspection and testing regarding  
6 mold abatement and prevention, any maintenance to reduce, lessen, put  
7 an end to, diminish, moderate, decrease, control, dispose of, or  
8 eliminate mold problems, any restoration or replacement of material  
9 or related architectural and engineering services, and any other  
10 action to reduce or eliminate mold problems or to enhance air quality  
11 conditions in new or existing school buildings or on school grounds  
12 under the control of a school board;

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

17 (k) Qualified zone academy has the meaning found in (i)  
18 26 U.S.C. 1397E(d)(4), as such section existed on October 3, 2008,  
19 for qualified zone academy bonds issued on or before such date, and  
20 (ii) 26 U.S.C. 54E(d)(1), as such section existed on October 4, 2008,  
21 for qualified zone academy bonds issued on or after such date;

22 (l) Qualified zone academy allocation means the  
23 allocation of the qualified zone academy bond limitation by the State  
24 Department of Education to the qualified zone academies pursuant to  
25 (i) 26 U.S.C. 1397E(e)(2), as such section existed on October 3,

1 2008, for allocations relating to qualified zone academy bonds issued  
2 on or before such date, and (ii) 26 U.S.C. 54E(c)(2), as such section  
3 existed on October 4, 2008, for allocations relating to qualified  
4 zone academy bonds issued on or after such date; and

5 (m) Qualified zone academy bond has the meaning found in  
6 (i) 26 U.S.C. 1397E(d)(1), as such section existed on October 3,  
7 2008, for such bonds issued on or before such date, and (ii) 26  
8 U.S.C. 54E(a), as such section existed on and after October 4, 2008,  
9 for such bonds issued on or after such date, as such section or bonds  
10 may be amended or supplemented.

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

15 (10) For the purpose of paying amounts necessary for the  
16 abatement of environmental hazards, accessibility barrier  
17 elimination, or modifications for life safety code violations, indoor  
18 air quality, mold abatement and prevention, or for an American  
19 Recovery and Reinvestment Act of 2009 purpose, the board may borrow  
20 money, establish a sinking fund, and issue bonds and other evidences  
21 of indebtedness of the district, which bonds and other evidences of  
22 indebtedness shall be secured by and payable from an irrevocable  
23 pledge by the district of amounts received in respect of the tax levy  
24 provided for by this section and any other funds of the district  
25 available therefor. Bonds and other evidences of indebtedness issued

1 by a district pursuant to this subsection shall not constitute a  
2 general obligation of the district or be payable from any portion of  
3 its general fund levy. A district may exceed the maximum levy of five  
4 and one-fifth cents authorized by this section in any year in which  
5 (a) the taxable valuation of the district is lower than the taxable  
6 valuation in the year in which the district last issued bonds  
7 pursuant to this section and (b) the maximum levy of five and one-  
8 fifth cents is insufficient to meet the combined annual principal and  
9 interest obligations for all bonds issued pursuant to this section.  
10 The amount generated from a district's levy in excess of the maximum  
11 levy of five and one-fifth cents upon the taxable valuation of the  
12 district shall not exceed the combined annual principal and interest  
13 obligations for such bonds minus the amount generated by levying the  
14 maximum levy of five and one-fifth cents upon the taxable valuation  
15 of the district and minus any federal payments or subsidies  
16 associated with such bonds.

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

24 (12) The total principal amount of qualified zone academy  
25 bonds which may be issued pursuant to this section for qualified

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

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

21           (13) The State Department of Education shall establish  
22 procedures for allocating bond authority to school boards as may be  
23 necessary pursuant to an American Recovery and Reinvestment Act of  
24 2009 bond.

25           Sec. 2. Original section 79-10,110, Revised Statutes

- 1 Cumulative Supplement, 2010, is repealed.