

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 868

Introduced by Urban Affairs Committee: McGill, 26, Chairperson;
Cook, 13; Krist, 10; Lambert, 2; Smith, 14.

Read first time January 06, 2012

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to budgets; to amend sections 13-501, 13-504,
2 13-505, 13-506, and 13-509.01, Reissue Revised Statutes
3 of Nebraska, and sections 13-503 and 13-508, Revised
4 Statutes Cumulative Supplement, 2010; to authorize a city
5 of the first class to adopt a biennial budget as
6 prescribed; to provide for a special election; to define
7 and redefine terms; to harmonize provisions; and to
8 repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-501, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-501 Sections 13-501 to 13-513 and section 8 of this
4 act shall be known and may be cited as the Nebraska Budget Act.

5 Sec. 2. Section 13-503, Revised Statutes Cumulative
6 Supplement, 2010, is amended to read:

7 13-503 For purposes of the Nebraska Budget Act, unless
8 the context otherwise requires:

9 (1) Governing body ~~shall mean~~ means the governing body of
10 any county agricultural society, elected county fair board, joint
11 airport authority formed under the Joint Airport Authorities Act,
12 city or county airport authority, bridge commission created pursuant
13 to section 39-868, cemetery district, city, village, municipal
14 county, community college, community redevelopment authority, county,
15 drainage or levee district, educational service unit, rural or
16 suburban fire protection district, historical society, hospital
17 district, irrigation district, learning community, natural resources
18 district, nonprofit county historical association or society for
19 which a tax is levied under subsection (1) of section 23-355.01,
20 public building commission, railroad transportation safety district,
21 reclamation district, road improvement district, rural water
22 district, school district, sanitary and improvement district,
23 township, offstreet parking district, transit authority, metropolitan
24 utilities district, Educational Service Unit Coordinating Council,
25 and political subdivision with the authority to have a property tax

1 request, with the authority to levy a toll, or that receives state
2 aid;

3 (2) Levying board ~~shall mean~~ means any governing body
4 which has the power or duty to levy a tax;

5 (3) Fiscal year ~~shall mean~~ means the twelve-month period
6 used by each governing body in determining and carrying on its
7 financial and taxing affairs;

8 (4) Tax ~~shall mean~~ means any general or special tax
9 levied against persons, property, or business for public purposes as
10 provided by law but ~~shall does~~ not include any special assessment;

11 (5) Auditor ~~shall mean~~ means the Auditor of Public
12 Accounts;

13 (6) Cash reserve ~~shall mean~~ means funds required for the
14 period before revenue would become available for expenditure but
15 ~~shall does~~ not include funds held in any special reserve fund;

16 (7) Public funds ~~shall mean~~ means all money, including
17 nontax money, used in the operation and functions of governing
18 bodies. For purposes of a county, city, or village which has a
19 lottery established under the Nebraska County and City Lottery Act,
20 only those net proceeds which are actually received by the county,
21 city, or village from a licensed lottery operator shall be considered
22 public funds, and public funds shall not include amounts awarded as
23 prizes;

24 (8) Adopted budget statement ~~shall mean~~ means a proposed
25 budget statement which has been adopted or amended and adopted as

1 provided in section 13-506. Such term ~~shall include~~ includes
2 additions, if any, to an adopted budget statement made by a revised
3 budget which has been adopted as provided in section 13-511;

4 (9) Special reserve fund ~~shall mean~~ means any special
5 fund set aside by the governing body for a particular purpose and not
6 available for expenditure for any other purpose. Funds created for
7 (a) the retirement of bonded indebtedness, (b) the funding of
8 employee pension plans, (c) the purposes of the Political
9 Subdivisions Self-Funding Benefits Act, (d) the purposes of the Local
10 Option Municipal Economic Development Act, (e) voter-approved sinking
11 funds, or (f) statutorily authorized sinking funds shall be
12 considered special reserve funds;

13 (10) Biennial period ~~shall mean~~ means the two fiscal
14 years comprising a biennium commencing in odd-numbered or even-
15 numbered years used by a city in determining and carrying on its
16 financial and taxing affairs; and

17 (11) Biennial budget ~~shall mean~~ means a budget by a city
18 of the primary or metropolitan class that adopts a charter provision
19 providing for a biennial period to determine and carry on the city's
20 financial and taxing affairs or a budget by a city of the first class
21 that adopts a biennial budget pursuant to section 8 of this act.

22 Sec. 3. Section 13-504, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 13-504 (1) Each governing body shall annually or
25 biennially prepare a proposed budget statement on forms prescribed

1 and furnished by the auditor. The proposed budget statement shall be
2 made available to the public by the political subdivision prior to
3 publication of the notice of the hearing on the proposed budget
4 statement pursuant to section 13-506. A proposed budget statement
5 shall contain the following information, except as provided by state
6 law:

7 (a) For the immediately preceding fiscal year or biennial
8 period, the revenue from all sources, including motor vehicle taxes,
9 other than revenue received from personal and real property taxation,
10 allocated to the funds and separately stated as to each such source:
11 The unencumbered cash balance at the beginning and end of the year or
12 biennial period; the amount received by taxation of personal and real
13 property; and the amount of actual expenditures;

14 (b) For the current fiscal year or biennial period,
15 actual and estimated revenue from all sources, including motor
16 vehicle taxes, allocated to the funds and separately stated as to
17 each such source: The actual unencumbered cash balance available at
18 the beginning of the year or biennial period; the amount received
19 from personal and real property taxation; and the amount of actual
20 and estimated expenditures, whichever is applicable. Such statement
21 shall contain the cash reserve for each fiscal year or biennial
22 period and shall note whether or not such reserve is encumbered. Such
23 cash reserve projections shall be based upon the actual experience of
24 prior years or biennial periods. The cash reserve shall not exceed
25 fifty percent of the total budget adopted exclusive of capital outlay

1 items;

2 (c) For the immediately ensuing fiscal year or biennial
3 period, an estimate of revenue from all sources, including motor
4 vehicle taxes, other than revenue to be received from taxation of
5 personal and real property, separately stated as to each such source:
6 The actual or estimated unencumbered cash balances, whichever is
7 applicable, to be available at the beginning of the year or biennial
8 period; the amounts proposed to be expended during the year or
9 biennial period; and the amount of cash reserve, based on actual
10 experience of prior years or biennial periods, which cash reserve
11 shall not exceed fifty percent of the total budget adopted exclusive
12 of capital outlay items;

13 (d) A statement setting out separately the amount sought
14 to be raised from the levy of a tax on the taxable value of real
15 property (i) for the purpose of paying the principal or interest on
16 bonds issued by the governing body and (ii) for all other purposes;

17 (e) A uniform summary of the proposed budget statement,
18 including each proprietary function fund included in a separate
19 proprietary budget statement prepared pursuant to the Municipal
20 Proprietary Function Act, and a grand total of all funds maintained
21 by the governing body; and

22 (f) For municipalities, a list of the proprietary
23 functions which are not included in the budget statement. Such
24 proprietary functions shall have a separate budget statement which is
25 approved by the city council or village board as provided in the

1 Municipal Proprietary Function Act.

2 (2) The actual or estimated unencumbered cash balance
3 required to be included in the budget statement by this section shall
4 include deposits and investments of the political subdivision as well
5 as any funds held by the county treasurer for the political
6 subdivision and shall be accurately stated on the proposed budget
7 statement.

8 (3) The political subdivision shall correct any material
9 errors in the budget statement detected by the auditor or by other
10 sources.

11 Sec. 4. Section 13-505, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 13-505 The estimated expenditures plus the required cash
14 reserve for the ensuing fiscal year or biennial period less all
15 estimated and actual unencumbered balances at the beginning of the
16 year or biennial period and less the estimated income from all
17 sources, including motor vehicle taxes, other than taxation of
18 personal and real property shall equal the amount to be received from
19 taxes, and such amount shall be shown on the proposed budget
20 statement pursuant to section 13-504. The amount to be raised from
21 taxation of personal and real property, as determined above, plus the
22 estimated revenue from other sources, including motor vehicle taxes,
23 and the unencumbered balances shall equal the estimated expenditures,
24 plus the necessary required cash reserve, for the ensuing year or
25 biennial period.

1 Sec. 5. Section 13-506, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-506 (1) Each governing body shall each year or
4 biennial period conduct a public hearing on its proposed budget
5 statement. Notice of place and time of such hearing, together with a
6 summary of the proposed budget statement, shall be published at least
7 five days prior to the date set for hearing in a newspaper of general
8 circulation within the governing body's jurisdiction. When the total
9 operating budget, not including reserves, does not exceed ten
10 thousand dollars per year or twenty thousand dollars per biennial
11 period, the proposed budget summary may be posted at the governing
12 body's principal headquarters. After such hearing, the proposed
13 budget statement shall be adopted, or amended and adopted as amended,
14 and a written record shall be kept of such hearing. The amount to be
15 received from personal and real property taxation shall be certified
16 to the levying board after the proposed budget statement is adopted
17 or is amended and adopted as amended. If the levying board represents
18 more than one county, a member or a representative of the governing
19 board shall, upon the written request of any represented county,
20 appear and present its budget at the hearing of the requesting
21 county. The certification of the amount to be received from personal
22 and real property taxation shall specify separately (a) the amount to
23 be applied to the payment of principal or interest on bonds issued by
24 the governing body and (b) the amount to be received for all other
25 purposes. If the adopted budget statement reflects a change from that

1 shown in the published proposed budget statement, a summary of such
2 changes shall be published within twenty days after its adoption in
3 the manner provided in this section, but without provision for
4 hearing, setting forth the items changed and the reasons for such
5 changes.

6 (2) Upon approval by the governing body, the budget shall
7 be filed with the auditor. The auditor may review the budget for
8 errors in mathematics, improper accounting, and noncompliance with
9 the ~~provisions of the~~ Nebraska Budget Act or sections 13-518 to
10 13-522. If the auditor detects such errors, he or she shall
11 immediately notify the governing body of such errors. The governing
12 body shall correct any such error as provided in section 13-511.
13 Warrants for the payment of expenditures provided in the budget
14 adopted under this section shall be valid notwithstanding any errors
15 or noncompliance for which the auditor has notified the governing
16 body.

17 Sec. 6. Section 13-508, Revised Statutes Cumulative
18 Supplement, 2010, is amended to read:

19 13-508 (1) After publication and hearing thereon and
20 within the time prescribed by law, each governing body, except as
21 provided in subsection (3) of this section, shall file with and
22 certify to the levying board or boards on or before September 20 of
23 each year or September 20 of the final year of a biennial period and
24 file with the auditor a copy of the adopted budget statement which
25 complies with sections 13-518 to 13-522 or 79-1023 to 79-1030,

1 together with the amount of the tax required to fund the adopted
2 budget, setting out separately (a) the amount to be levied for the
3 payment of principal or interest on bonds issued by the governing
4 body and (b) the amount to be levied for all other purposes. Proof of
5 publication shall be attached to the statements. Learning communities
6 shall also file a copy of such adopted budget statement with member
7 school districts on or before September 1 of each year. The governing
8 body, in certifying the amount required, may make allowance for
9 delinquent taxes not exceeding five percent of the amount required
10 plus the actual percentage of delinquent taxes for the preceding tax
11 year or biennial period and for the amount of estimated tax loss from
12 any pending or anticipated litigation which involves taxation and in
13 which tax collections have been or can be withheld or escrowed by
14 court order. For purposes of this section, anticipated litigation
15 shall be limited to the anticipation of an action being filed by a
16 taxpayer who or which filed a similar action for the preceding year
17 or biennial period which is still pending. Except for such
18 allowances, a governing body shall not certify an amount of tax more
19 than one percent greater or lesser than the amount determined under
20 section 13-505.

21 (2) Each governing body shall use the certified taxable
22 values as provided by the county assessor pursuant to section 13-509
23 for the current year in setting or certifying the levy. Each
24 governing body may designate one of its members to perform any duty
25 or responsibility required of such body by this section.

1 (3)(a) A Class I school district shall do the filing and
2 certification required by subsection (1) of this section on or before
3 August 1 of each year.

4 (b) A learning community shall do such filing and
5 certification on or before September 1 of each year.

6 Sec. 7. Section 13-509.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 13-509.01 On and after the first day of its fiscal year
9 in 1993 and of each succeeding year or on or after the first day of
10 its biennial period and until the adoption of the budget by a
11 governing body in September, the governing body may expend any
12 balance of cash on hand for the current expenses of the political
13 subdivision governed by the governing body. Except as provided in
14 section 13-509.02, such expenditures shall not exceed an amount
15 equivalent to the total amount expended under the last budget in the
16 equivalent period of the prior budget year or biennial period. Such
17 expenditures shall be charged against the appropriations for each
18 individual fund or purpose as provided in the budget when adopted.

19 Sec. 8. (1) A city of the first class may adopt biennial
20 budgets for biennial periods if the question has been approved by a
21 majority of legal voters voting on the issue at a special election
22 called for such purpose upon the recommendation of the governing body
23 or upon the receipt by the county clerk or election commissioner of a
24 petition requesting an election, signed by at least ten percent of
25 the legal voters of the city voting in the immediately preceding

1 municipal election.

2 (2) The question shall include, along with such terms as
3 the city or petition may set forth, the date that the proposed
4 biennial budget would go into effect and the following question:
5 Shall the governing body of [name of the city of the first class]
6 adopt a biennial budget (every two years) in place of the current
7 annual budget (every year)?

8 (3) The special election may be held in conjunction with
9 a primary or general election. The county clerk or election
10 commissioner shall call for a special election on the issue within
11 seventy-five days after the receipt of the recommendation of such
12 governing body or the petition. The election shall be held pursuant
13 to the Election Act, and all costs of the election shall be paid by
14 the governing body.

15 (4) For purposes of this section:

16 (a) Biennial budget means a budget that provides for a
17 biennial period to determine and carry on the city's financial and
18 taxing affairs; and

19 (b) Biennial period means the two fiscal years comprising
20 a biennium commencing in odd-numbered or even-numbered years.

21 Sec. 9. Original sections 13-501, 13-504, 13-505, 13-506,
22 and 13-509.01, Reissue Revised Statutes of Nebraska, and sections
23 13-503 and 13-508, Revised Statutes Cumulative Supplement, 2010, are
24 repealed.