

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 440**

Introduced by Albrecht, 17.

Read first time January 13, 2023

Committee: Revenue

1 A BILL FOR AN ACT relating to school funding; to amend sections 77-3442,  
2 79-1098, 79-10,100, 79-10,101, 79-10,120, and 79-10,126, Revised  
3 Statutes Cumulative Supplement, 2022; to change provisions relating  
4 to certain school taxes and special funds; to provide a termination  
5 date; to harmonize provisions; to repeal the original sections; and  
6 to declare an emergency.

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

1 Section 1. Section 77-3442, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

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

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

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

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

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

1 certificated teachers pursuant to subsection (3) of section 79-8,142 that  
2 are not otherwise included in an exclusion pursuant to subdivision (2)(d)  
3 of this section, (iii) amounts levied by a school district otherwise at  
4 the maximum levy pursuant to subdivision (2)(a) of this section to pay  
5 for seventy-five percent of the current and future sums agreed to be paid  
6 to certificated employees in exchange for a voluntary termination of  
7 employment occurring between September 1, 2017, and August 31, 2018, as a  
8 result of a collective-bargaining agreement in force and effect on  
9 September 1, 2017, that are not otherwise included in an exclusion  
10 pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a  
11 school district otherwise at the maximum levy pursuant to subdivision (2)  
12 (a) of this section to pay for fifty percent of the current and future  
13 sums agreed to be paid to certificated employees in exchange for a  
14 voluntary termination of employment occurring between September 1, 2018,  
15 and August 31, 2019, as a result of a collective-bargaining agreement in  
16 force and effect on September 1, 2017, that are not otherwise included in  
17 an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts  
18 levied by a school district otherwise at the maximum levy pursuant to  
19 subdivision (2)(a) of this section to pay for twenty-five percent of the  
20 current and future sums agreed to be paid to certificated employees in  
21 exchange for a voluntary termination of employment occurring between  
22 September 1, 2019, and August 31, 2020, as a result of a collective-  
23 bargaining agreement in force and effect on September 1, 2017, that are  
24 not otherwise included in an exclusion pursuant to subdivision (2)(d) of  
25 this section, (vi) amounts levied in compliance with sections 79-10,110  
26 and 79-10,110.02, (vii) amounts levied pursuant to subsection (4) of  
27 section 79-10,120, and (viii) amounts levied pursuant to subsection (3)  
28 of section 79-10,120 for projects that commence prior to such amounts  
29 being levied and (vii) amounts levied to pay for special building funds  
30 and sinking funds established for projects commenced prior to April 1,  
31 1996, for construction, expansion, or alteration of school district

1 ~~buildings~~. For purposes of this subsection, commenced means any action  
2 taken by the school board on the record which commits the board to expend  
3 district funds in planning, constructing, or carrying out the project.

4 (e) Federal aid school districts may exceed the maximum levy  
5 prescribed by subdivision (2)(a) or (2)(c) of this section only to the  
6 extent necessary to qualify to receive federal aid pursuant to 20 U.S.C.  
7 7701 et seq., as such sections existed on January 1, 2023 ~~Title VIII of~~  
8 ~~Public Law 103-382, as such title existed on September 1, 2001~~. For  
9 purposes of this subdivision, federal aid school district means any  
10 school district which receives ten percent or more of the revenue for its  
11 general fund budget from federal government sources pursuant to 20 U.S.C.  
12 7701 et seq., as such sections existed on January 1, 2023 ~~Title VIII of~~  
13 ~~Public Law 103-382, as such title existed on September 1, 2001~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18           (12) Property tax levies (a) for judgments, except judgments or  
19 orders from the Commission of Industrial Relations, obtained against a  
20 political subdivision which require or obligate a political subdivision  
21 to pay such judgment, to the extent such judgment is not paid by  
22 liability insurance coverage of a political subdivision, (b) for  
23 preexisting lease-purchase contracts approved prior to July 1, 1998, (c)  
24 for bonds as defined in section 10-134 approved according to law and  
25 secured by a levy on property except as provided in section 44-4317 for  
26 bonded indebtedness issued by educational service units and school  
27 districts, (d) for payments by a public airport to retire interest-free  
28 loans from the Division of Aeronautics of the Department of  
29 Transportation in lieu of bonded indebtedness at a lower cost to the  
30 public airport, and (e) to pay for cancer benefits provided on or after  
31 January 1, 2022, pursuant to the Firefighter Cancer Benefits Act are not

1 included in the levy limits established by this section.

2 (13) The limitations on tax levies provided in this section are to  
3 include all other general or special levies provided by law.  
4 Notwithstanding other provisions of law, the only exceptions to the  
5 limits in this section are those provided by or authorized by sections  
6 77-3442 to 77-3444.

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

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

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

26 Sec. 2. Section 79-1098, Revised Statutes Cumulative Supplement,  
27 2022, is amended to read:

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

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

10 Sec. 3. Section 79-10,100, Revised Statutes Cumulative Supplement,  
11 2022, is amended to read:

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

20 Sec. 4. Section 79-10,101, Revised Statutes Cumulative Supplement,  
21 2022, is amended to read:

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

1 ~~such sum so levied and collected, the expenditure of which is not~~  
2 ~~required to effectuate the purposes for which such sum was voted, may be~~  
3 ~~transferred by the school board, at any regular or special meeting by the~~  
4 ~~vote of a majority of the members attending, to the general fund of the~~  
5 ~~district.~~ All funds received by the district treasurer for such purpose  
6 shall be immediately invested by such treasurer in United States  
7 Government bonds or in such securities in which the state investment  
8 officer may invest the permanent school funds during the accumulation of  
9 such sinking fund.

10 Sec. 5. Sections 79-1098 to 79-10,101 terminate on January 1, 2033.

11 Sec. 6. Section 79-10,120, Revised Statutes Cumulative Supplement,  
12 2022, is amended to read:

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

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

30 (i) Major infrastructure updates on existing structures owned or  
31 leased by the school district, including: Heating, ventilation, and air

1 conditioning; roofs; safety requirements; and repairs;

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

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

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

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

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

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

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

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

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

30 (b) Any special fund established under this subsection shall be  
31 established from the proceeds of an annual tax levy approved by the legal

1 voters of the school district pursuant to subdivision (3)(c) of this  
2 section. Such tax shall be levied and collected in the same manner as  
3 other taxes levied for school purposes.

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

13 (4) A school district or a joint public agency that includes a  
14 school district that has been delegated the authority to tax may continue  
15 an annual tax established pursuant to this section prior to the effective  
16 date of this act through school fiscal year 2031-32 for any project  
17 commenced prior to the effective date of this act. Any annual tax  
18 continued pursuant to this subsection shall not exceed the amount needed  
19 annually to fund such project through school fiscal year 2031-32. The  
20 proceeds of any such annual tax shall only be used for the project for  
21 which the tax was levied. For purposes of this subsection, commenced  
22 means any action taken by the school board on the record which commits  
23 the board to expend district funds in planning, constructing, or carrying  
24 out the project. Any tax authorized pursuant to this subsection may  
25 exceed fourteen cents on each one hundred dollars of taxable value when  
26 combined with all other taxes imposed pursuant to this section.

27 (5) On or before October 1, 2023, the school board or board of  
28 education of any school district that levied an annual tax pursuant to  
29 this section for school fiscal year 2022-23 shall file with the Auditor  
30 of Public Accounts a statement describing any projects for which an  
31 annual tax may be continued pursuant to subsection (4) of this section,

1 the rate levied for school fiscal year 2022-23 attributable to each such  
2 project, and the anticipated completion date for each such project.

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

7 Sec. 7. Section 79-10,126, Revised Statutes Cumulative Supplement,  
8 2022, is amended to read:

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

25 Sec. 8. Original sections 77-3442, 79-1098, 79-10,100, 79-10,101,  
26 79-10,120, and 79-10,126, Revised Statutes Cumulative Supplement, 2022,  
27 are repealed.

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