

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 589

Introduced by Briese, 41; at the request of the Governor.

Read first time January 17, 2023

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-1632 and 77-1633, Revised Statutes Cumulative Supplement, 2022;
- 3 to adopt the School District Property Tax Limitation Act; to
- 4 harmonize provisions; to provide an operative date; and to repeal
- 5 the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known and may be
2 cited as the School District Property Tax Limitation Act.

3 Sec. 2. For purposes of the School District Property Tax Limitation
4 Act:

5 (1) Approved bonds means bonds that are issued by a school district
6 after the question of issuing such bonds has been approved by the voters
7 of such school district;

8 (2) Average daily membership has the same meaning as in section
9 79-1003;

10 (3) Base growth percentage means three percent;

11 (4) Department means the State Department of Education;

12 (5) Non-property-tax revenue means revenue of a school district from
13 all state and local sources other than real and personal property taxes.
14 Non-property-tax revenue does not include reimbursements for special
15 education programs and support services pursuant to sections 79-1129,
16 79-1132, and 79-1144 and does not include grants and donations;

17 (6) Property tax request means the total amount of property taxes
18 requested to be raised for a school district through the levy imposed
19 pursuant to section 77-1601;

20 (7) Property tax request authority means the amount that may be
21 included in a property tax request as determined pursuant to the School
22 District Property Tax Limitation Act;

23 (8) School board has the same meaning as in section 79-101;

24 (9) School district has the same meaning as in section 79-101; and

25 (10) Student enrollment means the total number of students in the
26 school district according to the fall school district membership report
27 described in subsection (4) of section 79-528.

28 Sec. 3. (1) Except as provided in sections 4 and 5 of this act, a
29 school district's property tax request for any year shall not exceed the
30 school district's property tax request authority.

31 (2) The department shall calculate each school district's property

1 tax request authority on an annual basis as follows:

2 (a) The school district's property tax request from the prior year
3 shall be added to the non-property-tax revenue from the prior year, and
4 the total shall be increased by whichever of the following percentages is
5 the highest:

6 (i) The base growth percentage;

7 (ii) The annual percentage increase in the student enrollment of the
8 school district multiplied by four-tenths;

9 (iii) The percentage obtained by first dividing the annual increase
10 in the total number of limited English proficiency students in the school
11 district by the student enrollment of the school district and then
12 multiplying the quotient by twenty-five hundredths; or

13 (iv) The percentage obtained by first dividing the annual increase
14 in the total number of poverty students in the school district by the
15 student enrollment of the school district and then multiplying the
16 quotient by twenty-five hundredths; and

17 (b) The amount determined under subdivision (2)(a) of this section
18 shall then be decreased by the amount of total non-property-tax revenue
19 for the current year. In determining the total non-property-tax revenue
20 for the current year, any category of non-property-tax revenue for which
21 there is insufficient data as of August 1 to make an accurate
22 determination shall be deemed to be equal to the prior year's amount.

23 (3) The department shall certify the amount determined for each
24 school district under this section to the school board of such school
25 district. Such certified amount shall be the school district's property
26 tax request authority.

27 Sec. 4. The School District Property Tax Limitation Act shall not
28 apply to that portion of a school district's property tax request that is
29 needed to pay the principal and interest on approved bonds.

30 Sec. 5. (1) A school district's property tax request may exceed its
31 property tax request authority by an amount approved by a sixty percent

1 majority of legal voters voting on the issue at a special election called
2 for such purpose upon the recommendation of the school board of such
3 school district or upon the receipt by the county clerk or election
4 commissioner of a petition requesting an election signed by at least five
5 percent of the legal voters of the school district. The recommendation of
6 the school board or the petition of the legal voters shall include the
7 amount by which the school board would increase its property tax request
8 for the year over and above the property tax request authority of such
9 school district. The county clerk or election commissioner shall call for
10 a special election on the issue within thirty days after the receipt of
11 such school board recommendation or legal voter petition. The election
12 shall be held pursuant to the Election Act, and all costs shall be paid
13 by the school district.

14 (2) A school district's property tax request may exceed its property
15 tax request authority by a percentage approved by an affirmative vote of
16 at least seventy-five percent of the school board of such school
17 district. Such percentage shall not exceed:

18 (a) Seven percent for school districts with an average daily
19 membership of no more than four hundred seventy-one students;

20 (b) Six percent for school districts with an average daily
21 membership of more than four hundred seventy-one students but no more
22 than three thousand forty-four students;

23 (c) Five percent for school districts with an average daily
24 membership of more than three thousand forty-four students but no more
25 than ten thousand students; or

26 (d) Four percent for school districts with an average daily
27 membership of more than ten thousand students.

28 (3) A school district's property tax request may exceed its property
29 tax request authority pursuant to any property tax authority approved by
30 the voters at a levy override election under section 77-3444 held prior
31 to January 1, 2024.

1 Sec. 6. A school district may choose not to increase its property
2 tax request by the full amount allowed by the school district's property
3 tax request authority in a particular year. In such cases, the school
4 district may carry forward to future years the amount of unused property
5 tax request authority. The department shall calculate each school
6 district's unused property tax request authority and shall submit an
7 accounting of such amount to the school board of the school district.
8 Such unused property tax request authority may then be used in later
9 years for increases in the school district's property tax request.

10 Sec. 7. The department shall prepare documents to be submitted by
11 school districts to aid the department in calculating each school
12 district's property tax request authority and unused property tax request
13 authority. Each school district shall submit such documents to the
14 department on or before September 20 of each year. If a school district
15 fails to submit such documents to the department or if the department
16 determines from such documents that a school district is not complying
17 with the limits provided in the School District Property Tax Limitation
18 Act, the department shall notify the school district of its
19 determination. The Commissioner of Education shall then direct that any
20 state aid granted pursuant to the Tax Equity and Educational
21 Opportunities Support Act be withheld until such time as the school
22 district submits the required documents or complies with the School
23 District Property Tax Limitation Act. The state aid shall be held for six
24 months. If the school district complies within the six-month period, it
25 shall receive the suspended state aid. If the school district fails to
26 comply within the six-month period, the suspended state aid shall revert
27 to the General Fund.

28 Sec. 8. The department may adopt and promulgate rules and
29 regulations to carry out the School District Property Tax Limitation Act.

30 Sec. 9. Section 77-1632, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 77-1632 (1) If the annual assessment of property would result in an
2 increase in the total property taxes levied by a county, city, village,
3 school district, learning community, sanitary and improvement district,
4 natural resources district, educational service unit, or community
5 college, as determined using the previous year's rate of levy, such
6 political subdivision's property tax request for the current year shall
7 be no more than its property tax request in the prior year, and the
8 political subdivision's rate of levy for the current year shall be
9 decreased accordingly when such rate is set by the county board of
10 equalization pursuant to section 77-1601. The governing body of the
11 political subdivision shall pass a resolution or ordinance to set the
12 amount of its property tax request after holding the public hearing
13 required in subsection (3) of this section. If the governing body of a
14 political subdivision seeks to set its property tax request at an amount
15 that exceeds its property tax request in the prior year, it may do so to
16 the extent allowed by law after holding the public hearing required in
17 subsection (3) of this section and by passing a resolution or ordinance
18 that complies with subsection (4) of this section. If any county, city,
19 school district, or community college seeks to increase its property tax
20 request by more than the allowable growth percentage, such political
21 subdivision shall comply with the requirements of section 77-1633 in lieu
22 of the requirements in subsections (3) and (4) of this section.

23 (2) If the annual assessment of property would result in no change
24 or a decrease in the total property taxes levied by a county, city,
25 village, school district, learning community, sanitary and improvement
26 district, natural resources district, educational service unit, or
27 community college, as determined using the previous year's rate of levy,
28 such political subdivision's property tax request for the current year
29 shall be no more than its property tax request in the prior year, and the
30 political subdivision's rate of levy for the current year shall be
31 adjusted accordingly when such rate is set by the county board of

1 equalization pursuant to section 77-1601. The governing body of the
2 political subdivision shall pass a resolution or ordinance to set the
3 amount of its property tax request after holding the public hearing
4 required in subsection (3) of this section. If the governing body of a
5 political subdivision seeks to set its property tax request at an amount
6 that exceeds its property tax request in the prior year, it may do so to
7 the extent allowed by law after holding the public hearing required in
8 subsection (3) of this section and by passing a resolution or ordinance
9 that complies with subsection (4) of this section. If any county, city,
10 school district, or community college seeks to increase its property tax
11 request by more than the allowable growth percentage, such political
12 subdivision shall comply with the requirements of section 77-1633 in lieu
13 of the requirements in subsections (3) and (4) of this section.

14 (3) The resolution or ordinance required under this section shall
15 only be passed after a special public hearing called for such purpose is
16 held and after notice is published in a newspaper of general circulation
17 in the area of the political subdivision at least four calendar days
18 prior to the hearing. For purposes of such notice, the four calendar days
19 shall include the day of publication but not the day of hearing. If the
20 political subdivision's total operating budget, not including reserves,
21 does not exceed ten thousand dollars per year or twenty thousand dollars
22 per biennial period, the notice may be posted at the governing body's
23 principal headquarters. The hearing notice shall contain the following
24 information: The certified taxable valuation under section 13-509 for the
25 prior year, the certified taxable valuation under section 13-509 for the
26 current year, and the percentage increase or decrease in such valuations
27 from the prior year to the current year; the dollar amount of the prior
28 year's tax request and the property tax rate that was necessary to fund
29 that tax request; the property tax rate that would be necessary to fund
30 last year's tax request if applied to the current year's valuation; the
31 proposed dollar amount of the tax request for the current year and the

1 property tax rate that will be necessary to fund that tax request; the
2 percentage increase or decrease in the property tax rate from the prior
3 year to the current year; and the percentage increase or decrease in the
4 total operating budget from the prior year to the current year.

5 (4) Any resolution or ordinance setting a political subdivision's
6 property tax request under this section at an amount that exceeds the
7 political subdivision's property tax request in the prior year shall
8 include, but not be limited to, the following information:

9 (a) The name of the political subdivision;

10 (b) The amount of the property tax request;

11 (c) The following statements:

12 (i) The total assessed value of property differs from last year's
13 total assessed value by percent;

14 (ii) The tax rate which would levy the same amount of property taxes
15 as last year, when multiplied by the new total assessed value of
16 property, would be \$..... per \$100 of assessed value;

17 (iii) The (name of political subdivision) proposes to adopt a
18 property tax request that will cause its tax rate to be \$..... per \$100
19 of assessed value; and

20 (iv) Based on the proposed property tax request and changes in other
21 revenue, the total operating budget of (name of political subdivision)
22 will (increase or decrease) last year's budget by percent; and

23 (d) The record vote of the governing body in passing such resolution
24 or ordinance.

25 (5) Any resolution or ordinance setting a property tax request under
26 this section shall be certified and forwarded to the county clerk on or
27 before October 15 of the year for which the tax request is to apply.

28 Sec. 10. Section 77-1633, Revised Statutes Cumulative Supplement,
29 2022, is amended to read:

30 77-1633 (1) For purposes of this section, political subdivision
31 means any county, city, school district, or community college.

1 (2) If any political subdivision seeks to increase its property tax
2 request by more than the allowable growth percentage, such political
3 subdivision may do so to the extent allowed by law if:

4 (a) A public hearing is held and notice of such hearing is provided
5 in compliance with subsection (3) of this section; and

6 (b) The governing body of such political subdivision passes a
7 resolution or an ordinance that complies with subsection (4) of this
8 section.

9 (3)(a) Each political subdivision within a county that seeks to
10 increase its property tax request by more than the allowable growth
11 percentage shall participate in a joint public hearing. Each such
12 political subdivision shall designate one representative to attend the
13 joint public hearing on behalf of the political subdivision. If a
14 political subdivision includes area in more than one county, the
15 political subdivision shall be deemed to be within the county in which
16 the political subdivision's principal headquarters are located. At such
17 hearing, there shall be no items on the agenda other than discussion on
18 each political subdivision's intent to increase its property tax request
19 by more than the allowable growth percentage.

20 (b) The joint public hearing shall be held on or after September 17
21 and prior to September 29 and before any of the participating political
22 subdivisions file their adopted budget statement pursuant to section
23 13-508.

24 (c) The joint public hearing shall be held after 6 p.m. local time
25 on the relevant date.

26 (d) The joint public hearing shall be organized by the county clerk
27 or his or her designee. At the joint public hearing, the representative
28 of each political subdivision shall give a brief presentation on the
29 political subdivision's intent to increase its property tax request by
30 more than the allowable growth percentage and the effect of such request
31 on the political subdivision's budget. The presentation shall include:

1 (i) The name of the political subdivision;

2 (ii) The amount of the property tax request; and

3 (iii) The following statements:

4 (A) The total assessed value of property differs from last year's
5 total assessed value by percent;

6 (B) The tax rate which would levy the same amount of property taxes
7 as last year, when multiplied by the new total assessed value of
8 property, would be \$..... per \$100 of assessed value;

9 (C) The (name of political subdivision) proposes to adopt a property
10 tax request that will cause its tax rate to be \$..... per \$100 of
11 assessed value;

12 (D) Based on the proposed property tax request and changes in other
13 revenue, the total operating budget of (name of political subdivision)
14 will exceed last year's by percent; and

15 (E) To obtain more information regarding the increase in the
16 property tax request, citizens may contact the (name of political
17 subdivision) at (telephone number and email address of political
18 subdivision).

19 (e) Any member of the public shall be allowed to speak at the joint
20 public hearing and shall be given a reasonable amount of time to do so.

21 (f) Notice of the joint public hearing shall be provided:

22 (i) By sending a postcard to all affected property taxpayers. The
23 postcard shall be sent to the name and address to which the property tax
24 statement is mailed;

25 (ii) By posting notice of the hearing on the home page of the
26 relevant county's website, except that this requirement shall only apply
27 if the county has a population of more than twenty-five thousand
28 inhabitants; and

29 (iii) By publishing notice of the hearing in a legal newspaper in or
30 of general circulation in the relevant county.

31 (g) Each political subdivision that participates in the joint public

1 hearing shall send the information prescribed in subdivision (3)(h) of
2 this section to the county clerk by September 5. The county clerk shall
3 transmit the information to the county assessor no later than September
4 10. The county clerk shall notify each participating political
5 subdivision of the date, time, and location of the joint public hearing.
6 The county assessor shall send the information required to be included on
7 the postcards pursuant to subdivision (3)(h) of this section to a
8 printing service designated by the county board. The initial cost for
9 printing the postcards shall be paid from the county general fund. Such
10 postcards shall be mailed at least seven calendar days before the joint
11 public hearing. The cost of creating and mailing the postcards, including
12 staff time, materials, and postage, shall be charged proportionately to
13 the political subdivisions participating in the joint public hearing
14 based on the total number of parcels in each participating political
15 subdivision.

16 (h) The postcard sent under this subsection and the notice posted on
17 the county's website, if required under subdivision (3)(f)(ii) of this
18 section, and published in the newspaper shall include the date, time, and
19 location for the joint public hearing, a listing of and telephone number
20 for each political subdivision that will be participating in the joint
21 public hearing, and the amount of each participating political
22 subdivision's property tax request. The postcard shall also contain the
23 following information:

24 (i) The following words in capitalized type at the top of the
25 postcard: NOTICE OF PROPOSED TAX INCREASE;

26 (ii) The name of the county that will hold the joint public hearing,
27 which shall appear directly underneath the capitalized words described in
28 subdivision (3)(h)(i) of this section;

29 (iii) The following statement: The following political subdivisions
30 are proposing a revenue increase which would result in an overall
31 increase in property taxes in (insert current tax year). THE ACTUAL TAX

1 ON YOUR PROPERTY MAY INCREASE OR DECREASE. This notice contains estimates
2 of the tax on your property as a result of this revenue increase. These
3 estimates are calculated on the basis of the proposed (insert current tax
4 year) data. The actual tax on your property may vary from these
5 estimates.

6 (iv) The parcel number for the property;

7 (v) The name of the property owner and the address of the property;

8 (vi) The property's assessed value in the previous tax year;

9 (vii) The amount of property taxes due in the previous tax year for
10 each participating political subdivision;

11 (viii) The property's assessed value for the current tax year;

12 (ix) The amount of property taxes due for the current tax year for
13 each participating political subdivision;

14 (x) The change in the amount of property taxes due for each
15 participating political subdivision from the previous tax year to the
16 current tax year; and

17 (xi) The following statement: To obtain more information regarding
18 the tax increase, citizens may contact the political subdivision at the
19 telephone number provided in this notice.

20 (4) After the joint public hearing required in subsection (3) of
21 this section, the governing body of each participating political
22 subdivision shall pass an ordinance or resolution to set such political
23 subdivision's property tax request. If the political subdivision is
24 increasing its property tax request over the amount from the prior year,
25 including any increase in excess of the allowable growth percentage, then
26 such ordinance or resolution shall include, but not be limited to, the
27 following information:

28 (a) The name of the political subdivision;

29 (b) The amount of the property tax request;

30 (c) The following statements:

31 (i) The total assessed value of property differs from last year's

1 total assessed value by percent;

2 (ii) The tax rate which would levy the same amount of property taxes
3 as last year, when multiplied by the new total assessed value of
4 property, would be \$..... per \$100 of assessed value;

5 (iii) The (name of political subdivision) proposes to adopt a
6 property tax request that will cause its tax rate to be \$..... per \$100
7 of assessed value; and

8 (iv) Based on the proposed property tax request and changes in other
9 revenue, the total operating budget of (name of political subdivision)
10 will exceed last year's by percent; and

11 (d) The record vote of the governing body in passing such resolution
12 or ordinance.

13 (5) Any resolution or ordinance setting a property tax request under
14 this section shall be certified and forwarded to the county clerk on or
15 before October 15 of the year for which the tax request is to apply.

16 (6) The county clerk, or his or her designee, shall prepare a report
17 which shall include (a) the names of the representatives of the political
18 subdivisions participating in the joint public hearing and (b) the name
19 and address of each individual who spoke at the joint public hearing,
20 unless the address requirement is waived to protect the security of the
21 individual, and the name of any organization represented by each such
22 individual. Such report shall be delivered to the political subdivisions
23 participating in the joint public hearing within ten days after such
24 hearing.

25 Sec. 11. This act becomes operative on January 1, 2024.

26 Sec. 12. Original sections 77-1632 and 77-1633, Revised Statutes
27 Cumulative Supplement, 2022, are repealed.