

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 986

Introduced by Briese, 41.

Read first time January 12, 2022

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-1632 and 77-1633, Revised Statutes Supplement, 2021; to adopt the
- 3 School District Property Tax Limitation Act; to harmonize
- 4 provisions; to provide an operative date; and to repeal the original
- 5 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 the greater of (a) two and one-half
11 percent or (b) the percentage increase in the Consumer Price Index for
12 All Urban Consumers, as prepared by the United States Department of
13 Labor, Bureau of Labor Statistics, for the twelve-month period ending on
14 June 30 of the year in which the property tax request is made;

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

16 (5) Non-property-tax revenue means revenue of a school district from
17 all sources other than real and personal property taxes. Non-property-tax
18 revenue includes, but is not limited to, revenue from all state sources
19 except reimbursements for special education programs and support services
20 pursuant to sections 79-1129, 79-1132, and 79-1144;

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

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

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

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

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

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

4 (2) The department shall calculate each school district's property
5 tax request authority on an annual basis as follows:

6 (a) The school district's property tax request from the prior year
7 shall be increased by whichever of the following percentages is the
8 highest:

9 (i) The base growth percentage;

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

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

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

20 (b) The amount determined under subdivision (2)(a) of this section
21 shall then be:

22 (i) Decreased by an amount equal to the amount by which the school
23 district's total non-property-tax revenue for the current year exceeds
24 the total non-property-tax revenue for the prior year. In determining the
25 total non-property-tax revenue for the current year, any category of non-
26 property-tax revenue for which there is insufficient data as of August 1
27 to make an accurate determination shall be deemed to be equal to the
28 prior year's amount; or

29 (ii) Increased by an amount equal to the amount by which the school
30 district's total non-property-tax revenue for the prior year exceeds the
31 total non-property-tax revenue for the current year. In determining the

1 total non-property-tax revenue for the current year, any category of non-
2 property-tax revenue for which there is insufficient data as of August 1
3 to make an accurate determination shall be deemed to be equal to the
4 prior year's amount.

5 (3) The department shall certify the amount determined for each
6 school district under this section to the school board of such school
7 district. Such certified amount shall be the school district's property
8 tax request authority.

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

12 Sec. 5. (1) A school district's property tax request may exceed its
13 property tax request authority by an amount approved by a sixty percent
14 majority of legal voters voting on the issue at a special election called
15 for such purpose upon the recommendation of the school board of such
16 school district or upon the receipt by the county clerk or election
17 commissioner of a petition requesting an election signed by at least five
18 percent of the legal voters of the school district. The recommendation of
19 the school board or the petition of the legal voters shall include the
20 amount by which the school board would increase its property tax request
21 for the year over and above the property tax request authority of such
22 school district. The county clerk or election commissioner shall call for
23 a special election on the issue within thirty days after the receipt of
24 such school board recommendation or legal voter petition. The election
25 shall be held pursuant to the Election Act, and all costs shall be paid
26 by the school board.

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

31 (a) Seven percent for school districts with an average daily

1 membership of no more than four hundred seventy-one students;

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

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

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

10 (3) A school district's property tax request may exceed its property
11 tax request authority pursuant to any property tax authority approved by
12 the voters at a levy override election under section 77-3444 held prior
13 to January 1, 2023.

14 Sec. 6. A school district may choose not to increase its property
15 tax request by the full amount allowed by the school district's property
16 tax request authority in a particular year. In such cases, the school
17 district may carry forward to future years the amount of unused property
18 tax request authority. The department shall calculate each school
19 district's unused property tax request authority and shall submit an
20 accounting of such amount to the school board of the school district.
21 Such unused property tax request authority may then be used in later
22 years for increases in the school district's property tax request.

23 Sec. 7. The department shall prepare documents to be submitted by
24 school districts to aid the department in calculating each school
25 district's property tax request authority and unused property tax request
26 authority. Each school district shall submit such documents to the
27 department on or before September 20 of each year. If a school district
28 fails to submit such documents to the department or if the department
29 determines from such documents that a school district is not complying
30 with the limits provided in the School District Property Tax Limitation
31 Act, the department shall notify the school district of its

1 determination. The Commissioner of Education shall then direct that any
2 state aid granted pursuant to the Tax Equity and Educational
3 Opportunities Support Act be withheld until such time as the school
4 district submits the required documents or complies with the School
5 District Property Tax Limitation Act. The state aid shall be held for six
6 months. If the school district complies within the six-month period, it
7 shall receive the suspended state aid. If the school district fails to
8 comply within the six-month period, the suspended state aid shall revert
9 to the General Fund.

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

12 Sec. 9. Section 77-1632, Revised Statutes Supplement, 2021, is
13 amended to read:

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

1 school district, or community college seeks to increase its property tax
2 request by more than the allowable growth percentage, such political
3 subdivision shall comply with the requirements of section 77-1633 in lieu
4 of the requirements in subsections (3) and (4) of this section.

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

27 (3) The resolution or ordinance required under this section shall
28 only be passed after a special public hearing called for such purpose is
29 held and after notice is published in a newspaper of general circulation
30 in the area of the political subdivision at least four calendar days
31 prior to the hearing. For purposes of such notice, the four calendar days

1 shall include the day of publication but not the day of hearing. If the
2 political subdivision's total operating budget, not including reserves,
3 does not exceed ten thousand dollars per year or twenty thousand dollars
4 per biennial period, the notice may be posted at the governing body's
5 principal headquarters. The hearing notice shall contain the following
6 information: The certified taxable valuation under section 13-509 for the
7 prior year, the certified taxable valuation under section 13-509 for the
8 current year, and the percentage increase or decrease in such valuations
9 from the prior year to the current year; the dollar amount of the prior
10 year's tax request and the property tax rate that was necessary to fund
11 that tax request; the property tax rate that would be necessary to fund
12 last year's tax request if applied to the current year's valuation; the
13 proposed dollar amount of the tax request for the current year and the
14 property tax rate that will be necessary to fund that tax request; the
15 percentage increase or decrease in the property tax rate from the prior
16 year to the current year; and the percentage increase or decrease in the
17 total operating budget from the prior year to the current year.

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

22 (a) The name of the political subdivision;

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

24 (c) The following statements:

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

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

30 (iii) The (name of political subdivision) proposes to adopt a
31 property tax request that will cause its tax rate to be \$..... per \$100

1 of assessed value; and

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

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

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

10 Sec. 10. Section 77-1633, Revised Statutes Supplement, 2021, is
11 amended to read:

12 77-1633 (1) For purposes of this section, political subdivision
13 means any county, city, school district, or community college.

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

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

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

22 (3)(a) Each political subdivision within a county that seeks to
23 increase its property tax request by more than the allowable growth
24 percentage shall participate in a joint public hearing. Each such
25 political subdivision shall designate one representative to attend the
26 joint public hearing on behalf of the political subdivision. If a
27 political subdivision includes area in more than one county, the
28 political subdivision shall be deemed to be within the county in which
29 the political subdivision's principal headquarters are located. At such
30 hearing, there shall be no items on the agenda other than discussion on
31 each political subdivision's intent to increase its property tax request

1 by more than the allowable growth percentage.

2 (b) The joint public hearing shall be held on or after September 17
3 and prior to September 29 and before any of the participating political
4 subdivisions file their adopted budget statement pursuant to section
5 13-508.

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

8 (d) At the joint public hearing, the representative of each
9 political subdivision shall give a brief presentation on the political
10 subdivision's intent to increase its property tax request by more than
11 the allowable growth percentage and the effect of such request on the
12 political subdivision's budget. The presentation shall include:

13 (i) The name of the political subdivision;

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

15 (iii) The following statements:

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

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

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

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

27 (E) To obtain more information regarding the increase in the
28 property tax request, citizens may contact the (name of political
29 subdivision) at (telephone number and email address of political
30 subdivision).

31 (e) Any member of the public shall be allowed to speak at the joint

1 public hearing and shall be given a reasonable amount of time to do so.

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

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

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

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

12 (g) Each political subdivision that participates in the joint public
13 hearing shall send the information prescribed in subdivision (3)(h) of
14 this section to the county clerk by September 5. The county clerk shall
15 transmit the information to the county assessor no later than September
16 10. The county clerk shall notify each participating political
17 subdivision of the date, time, and location of the joint public hearing.
18 The county assessor shall mail the postcards required in this subsection.
19 Such postcards shall be mailed at least seven calendar days before the
20 joint public hearing. The cost of creating and mailing the postcards,
21 including staff time, materials, and postage, shall be divided among the
22 political subdivisions participating in the joint public hearing.

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

31 (i) The following words in capitalized type at the top of the

1 postcard: NOTICE OF PROPOSED TAX INCREASE;

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

5 (iii) The following statement: The following political subdivisions
6 are proposing a revenue increase as a result of property taxes in (insert
7 current tax year). This notice contains estimates of the tax on your
8 property and the proposed tax increase on your property as a result of
9 this revenue increase. These estimates are calculated on the basis of the
10 proposed (insert current tax year) data. The actual tax on your property
11 and tax increase on your property may vary from these estimates.

12 (iv) The parcel number for the property;

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

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

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

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

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

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

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

26 (4) After the joint public hearing required in subsection (3) of
27 this section, the governing body of each participating political
28 subdivision shall pass an ordinance or resolution to set such political
29 subdivision's property tax request. If the political subdivision is
30 increasing its property tax request over the amount from the prior year,
31 including any increase in excess of the allowable growth percentage, then

1 such ordinance or resolution shall include, but not be limited to, the
2 following information:

3 (a) The name of the political subdivision;

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

5 (c) The following statements:

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

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

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

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

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

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

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

31 Sec. 11. This act becomes operative on January 1, 2023.

1 Sec. 12. Original sections 77-1632 and 77-1633, Revised Statutes
2 Supplement, 2021, are repealed.