Nebraska Property Tax Relief After LB 34

Abir Mandal Senior Policy Analyst
Jared Walczak Vice President of State Projects

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Key Findings

- Nebraska's pre-LB 34 efforts to rein in property taxes proved insufficient, with property tax bills still rising sharply.
- The existing system of property tax credits involved significant timing effects and limited take-up, providing delayed and inadequate relief, while revenue limitation provisions lacked teeth.
- Under LB 34, Nebraska now has its first true levy limit, but design flaws will yield undesirably lax constraints some years and unworkably strict limits in others.
- The Nebraska Unicameral has an opportunity to revise the property tax package enacted in 2024 to ensure that Nebraskans enjoy meaningful property tax relief, while protecting against unintended consequences for housing markets.

Introduction

Nebraskans have witnessed a flurry of activity in recent years as policymakers have sought to check the growth of homeowners' tax bills. Property tax credits, truth in taxation laws, a proposed property tax (and other tax) repeal measure, a gubernatorial proposal to backfill a substantial share of existing property tax burdens, and ultimately the 2024 special session's adoption of legislation expanding property tax offsets and capping increases in property tax burdens are just the highlights of property tax relief efforts in recent years.

And yet for homeowners, very little seems to have changed, at least up through the 2024 special session. Despite the new laws, property tax bills kept rising.

In many respects, this is unsurprising. Property taxes are rising in communities across the country as jurisdictions frequently fail to—and are often under no obligation to—reduce millages (rates) in response to soaring property values. Nebraska is not an outlier in this regard. What distinguishes Nebraska, however, is its starting point as a state that already features high property taxes, as well as the insufficiency of prior legislative efforts to tackle the problem.

Since 2020, the average Nebraska home price has risen 23 percent in real (inflation-adjusted) terms, compared to 25 percent nationally.[1] Higher property taxes driven by soaring home values are a national challenge, not one specific to Nebraska, but while these sharp increases are new everywhere, they stand out even more in Nebraska after many years of home price increases that trailed national averages. From 2000 to late 2019, Nebraska home prices rose 14 percent in real terms, just over a third of the increase nationwide. Since 2020, those increases have much more closely tracked national averages—in a state with an effective rate of 1.44 percent on owner-occupied property, compared to 0.91 percent nationwide.[2]

Legislative Bill (LB) 34, adopted in special session in 2024, has teeth in ways that previous bills did not—but in several important respects, it misses the mark, too lenient in some areas and too stringent in others. Some years, its mechanisms might improperly tie the hands of local officials. Other years, it may allow significant property tax increases of the sort that homeowners believed it was designed to prevent.

Property taxes, when well-designed, have an important role to play in municipal taxation. This publication briefly makes the case for the property tax, embattled as it is in Nebraska, then surveys both LB 34 and the pre-LB 34 structure of state property tax relief, before offering recommendations for recalibrating to ensure that Nebraskans benefit from real, predictable property tax relief—without the state sacrificing economic growth or further distorting property markets.

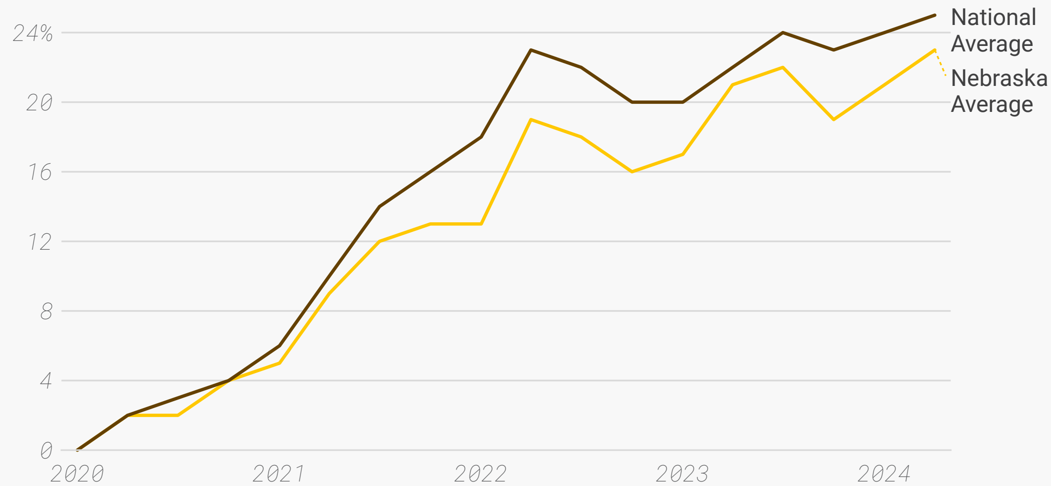
1 US Federal Housing Finance Agency, "All-Transactions House Price Index for the United States," retrieved from FRED, Federal Reserve Bank of St. Louis, https://fred.stlouisfed.org/series/USSTHPI; Id., "All-Transactions House Price Index for Nebraska," https://fred.stlouisfed.org/series/NESTHPI. Compare the repeat-sales approach of S&P Dow Jones Indices LLC, "S&P CoreLogic Case-Shiller U.S. National Home Price Index," https://fred.stlouisfed.org/series/CSUSHPINSA for congruity.

2 Tax Foundation, *Facts & Figures 2024*, Table 33, https://taxfoundation.org/data/all/state/2024-state-tax-data/.

Figure 1.

Nebraska Home Prices Have Risen Dramatically Since 2020

Inflation-Adjusted Increases in Home Prices, Nebraska and US Average, 2020-2024



Source: US Federal Housing Finance Agency, "All-Transactions House Price Index for the United States"; Id., "All-Transactions House Price Index for Nebraska"; US Bureau of Labor Statistics, "Consumer Price Index"; Tax Foundation calculations.

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A survey of the landscape prior to LB 34 is necessary for at least two reasons. First, many of these provisions remain on the books even though they are largely superseded by the latest enactments, causing confusion and creating unnecessary complexity in the interactions of old and new laws. Second, confusion about Nebraska's existing laws appears to have influenced more recent debates about reform options, since many participants were under the misapprehension that certain possible reforms had been tried and found wanting.

Nebraskans want property tax relief. The state should strive for a system that delivers that relief effectively, consistently, and without harming their broader economic interests.

Why Property Taxes?

Soaring property valuations have caused property tax bills to increase substantially in some states, causing consternation among property owners and indirectly among renters, who are seeing the additional levies passed through in the form of increased rents. Property tax reform proposals in some states, including Nebraska and North Dakota, have contemplated outright abolition of the tax,[3] while others have called for dramatic reductions, substituted by raising other taxes. (Nebraska explored both approaches.[4]) The property tax has historically been the mainstay of local services, including education, law enforcement, roads, and emergency services.

3 For the Tax Foundation's analysis of the Nebraska EPIC Option, see Jared Walczak and Manish Bhatt, "The Shortcomings of Nebraska's EPIC Option," Tax Foundation, Mar. 14, 2024, https://taxfoundation.org/research/all/state/nebraska-epic-option-consumption-tax/.

4 For an analysis of earlier proposals in the 2024 special session, see Jared Walczak, "Proposed Nebraska Property Tax Relief Plan Would Make Things Worse," Tax Foundation, Jul. 23, 2024, https://taxfoundation.org/blog/nebraska-property-tax-relief-plan/.

The US Constitution prohibits any "direct" federal tax unless it is imposed in proportion to population,[5] thereby delegating property taxes exclusively to states and localities. Property taxes were extremely important to state revenues in the beginning of the 20th century. However, with the introduction of state sales and income taxes, property taxes are now almost exclusively the domain of local governments in the United States. Therefore, property taxes have a unique degree of closeness with the consumers of the services they fund. This is not the case for most other taxes.

Some states impose taxes on only real property, while others also levy taxes against tangible and intangible assets, such as motor vehicles, business machinery and equipment, and business inventory. However, levies on real estate constitute an overwhelming share of property tax revenues in the United States, given the immense administrative burden of assessing and enforcing taxes on other kinds of assets.

Property taxes, when implemented properly, can be fair, efficient, and stable. The property tax is also highly visible, featuring a level of transparency that is desirable, but which is sufficiently contrasted with the opaqueness of other taxes to make property taxation susceptible to a disproportionate level of scrutiny.

Revenue from property taxes is used to fund local services such as schools, police, and fire departments. Property owners directly benefit from these services, which can enhance their quality of life. Property owners also benefit from the increase in their property values directly associated with the development of local infrastructure, such as good roads, schools, and parks, to which property taxes contribute. This aligns the tax with the benefits received.

Property values are assessed based on transparent criteria, even if disagreements arise, and property owners can appeal assessments that they feel are unfair. In addition, property is immovable and easily identifiable, making property taxes harder to evade compared to other forms of taxation like income or sales taxes. This minimizes tax avoidance and ensures a more equitable distribution of the tax burden.

Property values are also less volatile and less susceptible to short-term fluctuations than tax bases like income or consumption. These changes are also typically more predictable than other economic variables. Local governments can forecast property tax revenues with greater accuracy than other taxes (this is even more true with a levy limit in place, as discussed later), allowing them to plan for future expenditures with a lower margin of error. This contrasts with taxes based on income or sales, which can fluctuate significantly with market conditions.

The predictability and stability of property taxes allow local governments to consistently fund essential services such as education, public safety, and creation and maintenance of infrastructure. Municipalities can create long-term plans and investments with greater confidence, knowing that their revenue from property taxes is reliable, which is not the case with other taxes.

5 U.S. Const. art. I, § 9.

Municipalities have the authority to establish tax rates (subject to state-imposed caps), evaluate property values, and decide how the money raised will be used, because property taxes are administered and enforced locally. This kind of decentralization allows for funds to be allocated to local community-specific needs and objectives. Local authorities can respond more quickly to any changes in the population's choices or circumstances, and tax and spending policies can be more precisely adapted to specific economic conditions and demographics. This flexibility ensures governance is more responsive and efficient.

Local officials are directly accountable to their constituents to a degree that is not practical at other levels of government. Because property taxes fund local services like schools, police, and infrastructure, taxpayers can easily see where their money is going. Jurisdictions usually also provide detailed information to residents about their property taxes, including how assessments are performed, what the tax rates are, and how every fraction of the revenue collected is spent. Such details are not provided for any other forms of taxation. This helps engaged taxpayers understand the value they receive for their money, and if they are unhappy, they can influence change through a local political process that is far more responsive than petitioning lawmakers in Lincoln. And truth in taxation policies implemented and broadened in recent years make the tax more transparent than ever before. That's a good feature of the property tax: it encourages active, informed engagement in governance by fostering a system in which local communities have substantial control over their financial resources. As a result, the tax system is more democratic, equitable, and responsive.

Ultimately, the basic case for property taxes rests on the following premises, which are well-supported by the economic literature:

1. Property taxes do less economic harm than alternative ways to raise the same amount of revenue, making them more economically efficient than the alternatives.

2. Property taxes have less of an effect on decision-making—including location decisions—than most other taxes, making them less distortionary than the alternatives.

3. Property taxes roughly align with the benefits that property owners receive from local services, making them more equitable than the alternatives.

4. Property taxes are highly transparent and correlate strongly with services that enhance the value and utility of property, making them unusually sensitive to local preferences on the size and scope of government.[6]

Real property taxes fall on land and improvements. Land itself is a fixed asset; the supply of land does not change with property taxes. An income tax, by reducing the returns to labor and investment, has a negative effect on labor force participation, productivity, and capital formation. A tax on land cannot, by contrast, decrease the amount of land.

6 For a lengthier treatment of this topic, see Jared Walczak, "Confronting the New Property Tax Revolt," Tax Foundation, Nov. 5, 2024, https://taxfoundation.org/research/all/state/property-tax-relief-reform-options/.

At the margin, of course, property taxes can affect how much land can be used productively. Specifically, they may impact the capital invested in improving the land—irrigating arid land to make it suitable for crops, say, or building a house or an apartment complex on it rather than leaving it vacant or putting it to some lesser use. But the part of the property tax that falls on the land itself creates extremely few distortions.

Even where the improvements are concerned, research suggests that property taxes do relatively little to distort economic decision-making, since (unlike income or sales taxes) the tax does not penalize productivity or consumption. Those taxes reduce incentives to work, invest, or consume. The property tax does none of those things, at least not to the same degree. There are lower elasticities—an economic term for the responsiveness of quantity supplied or demanded to other factors, including tax costs—and thus fewer deadweight losses from property taxes, because property is not quickly or easily added or removed. Studies consistently find that property taxes have less of an impact on employment and economic growth than other forms of taxation.[7]

While property taxes can certainly be too high, and can rise too precipitously, the tax itself is an essential component of local government financing. Well-structured reforms should keep property taxes in check, but avoid shifting too far away from a tax that is preferable to most alternatives.

Nebraska's Old Property Tax Relief System

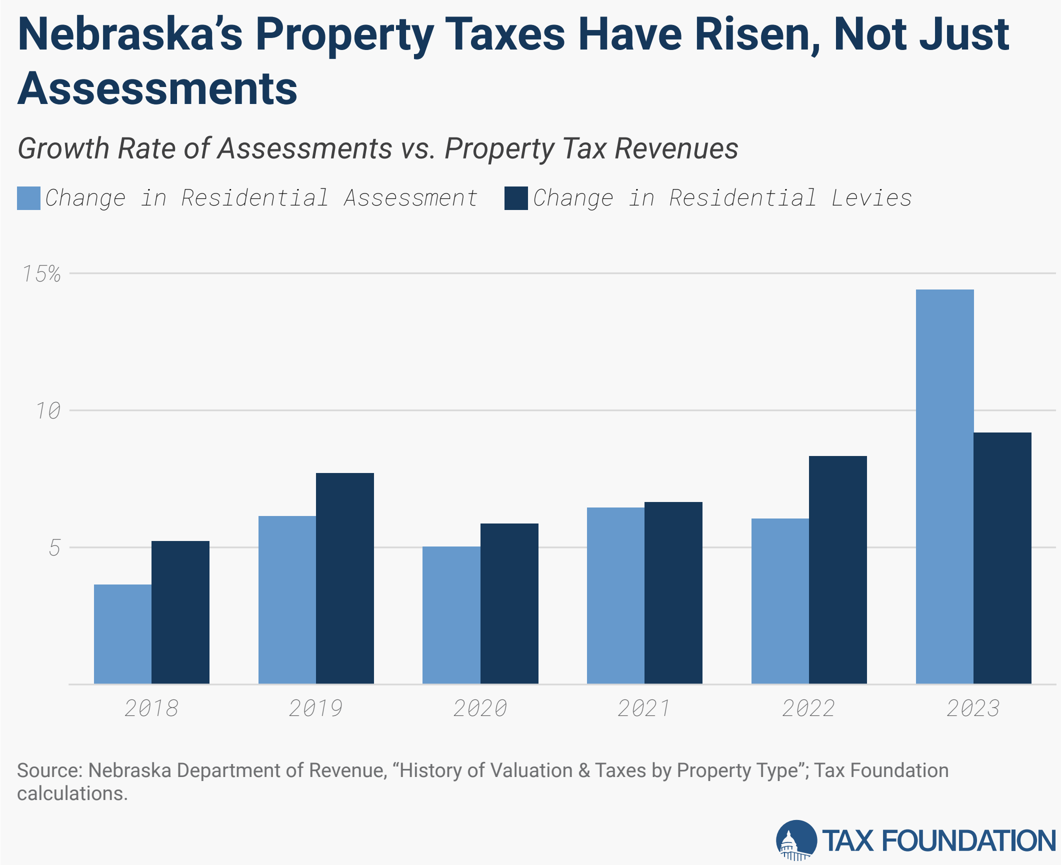
Property taxes have been a source of considerable frustration in Nebraska for many years. High property taxes—which have become much higher in recent years—are an issue that legislators and governors have attempted to solve, but with at best mixed success, despite the priority given to this issue. The sense that multiple rounds of property tax reform and relief haven't reined in the growth of property taxes has fueled increasingly ambitious proposals, like the so-called EPIC Option and Gov. Jim Pillen's initial proposals in special session. These proposals had substantial shortcomings, but their appeal was in their boldness, after years of efforts that failed to provide the relief taxpayers sought.

Nebraska, like most of the country, has seen market values of real property increase substantially over the last five years. In the absence of effective property tax limitation regimes, property owners have faced a corresponding increase in their property tax bills. For example, between 2017 and 2023, real property assessments increased by over 20 percent, and over the same period, per capita property taxes increased by 26 percent.[8] Meanwhile, the average property tax rate paid by taxpayers as a proportion of their property values remained almost constant at around 1.7 percent, meaning that local governments did not proportionately cut rates in response to higher valuations.

7 See, e.g., Jens Arnold, Bert Brys, Christopher Heady, Åsa Johansson, Cyrille Schwellnus, and Laura Vartia, "Tax Policy for Economic Recovery and Growth," *Economic Journal* 121:550 (2011); Stephen T. Mark, Therese J. McGuire, and Leslie E. Papke, "The Influence of Taxes on Employment and Population Growth: Evidence From the Washington, D.C. Metropolitan Area," *National Tax Journal* 53:1 (2000); Dagney Faulk, Nalitra Thaiprasert, and Michael Hicks, "The Economic Effects of Replacing the Property Tax with a Sales or Income Tax: A Computable General Equilibrium Approach," Ball State University, Department of Economics, Working Papers, June 2010; and Santiago Acosta-Ormaechea and Jiae Yoo, "Tax Composition and Growth: A Broad Cross-Country Perspective," IMF Working Paper, October 2012.

8 Nebraska Department of Revenue, "Valuation, Taxes Levied, and Tax Rate Data" (multiple series), https://revenue.nebraska.gov/PAD/research-statistical-reports/valuation-taxes-levied-and-tax-rate-data.

Figure 2.



Source: Nebraska Department of Revenue, "History of Valuation & Taxes by Property Type"; Tax Foundation calculations.

The circumstances for residential property owners were even more dramatic. Households saw their assessments increase by almost 50 percent over the same period, which came with a nominal (unadjusted) 40 percent increase in tax bills. Essentially, assessed values skyrocketed, while local governments' millages (rates) stayed roughly constant. While this period was marked by high inflation, increasing the price of government services, there is no reason that property tax bills need to increase in step with property values, since the quality or quantity of services received by taxpayers is not correlated with an aggregate increase in the property values.

Table 1. Top 10 Counties for Property Tax Growth in Nebraska

Counties with Greatest Increases in Property Tax Levies

County	Levies 2023	Growth 2022-23
Harlan	$15,588,464.94	10.61%
Sarpy	$529,490,198.23	9.74%
Wheeler	$7,212,783.50	9.50%
Lancaster	$718,033,204.86	9.15%
McPherson	$3,913,640.18	8.55%
Colfax	$32,921,227.66	8.00%
Frontier	$12,891,592.76	7.93%
Douglas	$1,433,294,489.48	7.85%
Perkins	$15,264,312.14	7.26%
Garfield	$7,876,983.54	7.13%

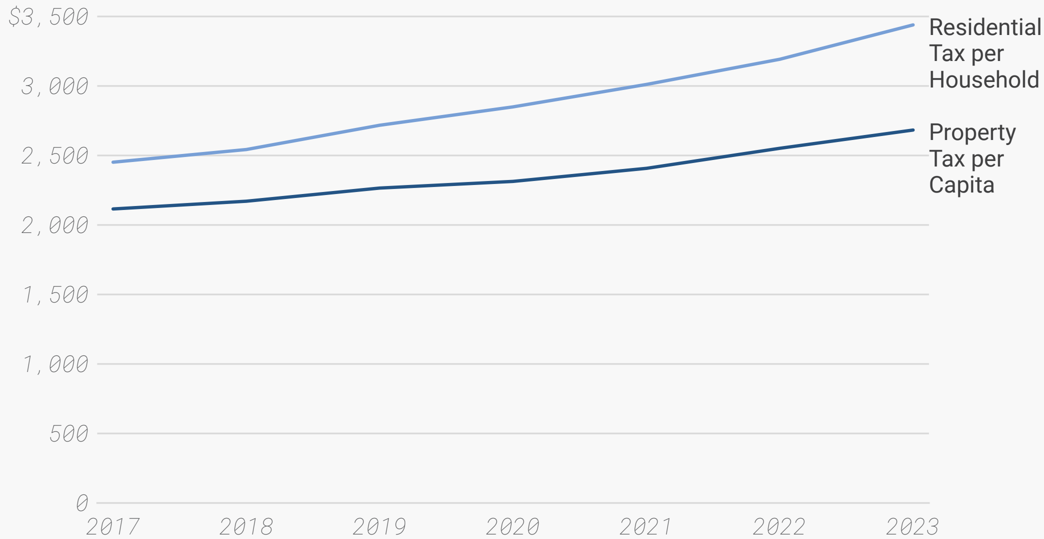
Source: Nebraska Department of Revenue, "Property Value, Taxes Levied, and Average Tax Rates"; Tax Foundation calculations.

Nebraskans understand that the current policies are not working. But evaluations of potential solutions have often been hampered by confusion about the existing (relatively ineffective) relief mechanisms. Lawmakers, for instance, regularly speak of Nebraska's levy or revenue limits, terms that typically apply to policies that constrain the overall growth of property tax collections in each jurisdiction. This is not, in fact, what Nebraska's limits did, but confusion over terminology has helped to take potentially valuable reforms off the table, as members of the Unicameral and the broader policy community equate these potential reforms with policies they already have in place, and which aren't working.

Figure 3.

Nebraska Households' Property Tax Bills Are Rising

Average Property Tax Bills for Households and Individuals, 2017-2023



Source: Nebraska Department of Revenue, "History of Valuation & Taxes Levied by Political Subdivision"; Tax Foundation calculations.

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While LB 989,[9] enacted in 1998, did set a spending growth limit on local governments, the restriction applied to the sum total of all restricted funds, which included state aid, local sales taxes, surpluses, etc., in addition to property taxes, and demonstrably did little to prevent the growth of property taxes, since, among other limitations on the law's effectiveness, they could grow well above LB 989's "cap" to offset changes elsewhere. Laws on the books with growth restrictions of 2 percent or 2.5 percent are both commonly spoken of as if they are intended to cap property tax growth to such increments, but that is not what they do.

Property assessments in Nebraska are based on market value. For residential and commercial properties, the taxable value ratio is 100 percent of the market value, while agricultural land is assessed at a lower percentage, at 75 percent of its market value. Local governing authorities, including counties, cities, and

9 Nebraska Legislative Bill 989, 95th Leg. (1998).

school districts, operate under statutory limits to the maximum property tax rate they can impose. The general limit for counties was $0.50 per $100 of assessed value. Cities and villages have a cap of $0.45 per $100 of assessed value. School districts are limited to $1.05 per $100 of assessed value, which could be exceeded, but only with voter approval. Certain special districts also have their own rate limits. These are typically lower than the general limits for counties and cities.[10]

Local governments were authorized to exceed their limits under certain conditions, usually requiring voter approval through a referendum. This allowed communities to raise additional revenue for specific needs, such as capital or public safety improvements. Levies for service on bonds issued for capital projects were typically exempt from the general rate limits. This meant that local governments could levy additional property taxes to repay bonds without being constrained by statutory limits. Local governments had mechanisms to override these limits temporarily. For example, school districts could seek voter approval to exceed the $1.05 rate limit for a specified period, usually up to five years. Certain homeowners, such as seniors, veterans, and disabled individuals, qualify for a homestead exemption, which reduces the taxable value of their property.

The combined rate cap for all local governments within a jurisdiction is generally set at $2.19 per $100 of assessed value. However, rate caps matter little in an environment of rising assessments, due to which local governments received a windfall of taxes and increases year after year without public consultation or even a vote of the governing body.

Collectively, these caps are generically known as rate limits, even though Nebraska often calls them "levy limits," a term also applied to limitations like those found in LB 989, which restrict revenue growth (albeit not for property taxes alone). A limitation on tax *rates* does nothing to help taxpayers when soaring property values are driving the higher tax bills, with the same millage raising substantially more revenue. The only levy limit provision Nebraska had on the books before the recent enactment of LB 34 is the local-option property tax levy cap, which allows voters to seek a referendum on a two-year levy limit.[11]

In 2019, the legislature unanimously passed LB 103,[12] which addressed revenue increases due to assessment changes. Under this law, local governments were required to hold public hearings and take a subsequent vote to approve the additional revenue arising from rising values, even if millages remained unchanged. This applied to all school districts, counties, municipalities, and community college districts. Essentially, LB 103 constituted Nebraska's first "truth in taxation" (TNT) transparency statute.

Building upon this in 2021, lawmakers enacted the Property Tax Request Act, which required local governments to hold public hearings for all tax increases beyond an allowable rate of 2 percent (adjustable by legislature) plus an entity's "real" growth percentage. Real growth included annexations, capital improvements to existing real estate, or changes in property classification (such as from agricultural to residential). If any local government or taxing entity sought a revenue increase beyond this limit, it would have to go through a process that included public notification of an open hearing centrally located within the county, followed by voting on a resolution for the increase.

10 Neb. Rev. Stat. § 77-3442.
11 Neb. Rev. Stat. §§ 77-3401-3410.
12 Nebraska Legislative Bill 103, 106th Leg. (2019).

These dedicated public hearings were to be held in late September of the fiscal before which the increase was sought, with proper notice given and details of the proposed property tax increase sent to each homeowner, including estimates of the likely increased burden on the property and contact information for the levying entity. During the hearing, in which the people in attendance were allowed to voice their concerns, representatives of the taxing authority would provide details of the assessment process, assessed values, rates applicable, and the reasons for the increase in the budget requested. Upon conclusion of the hearing, the commissioners would have to take a vote on the increase and publish a record of the vote and the changes implemented by the ordnance.

While the Property Tax Request Act was a welcome reform, enhancing tax transparency and providing taxpayers an opportunity to be a part of the local budget process, the rate-setting process took place in advance of the hearing, with only the final vote reserved until after soliciting taxpayer input. While local officials could, of course, recede from a proposed tax increase, in practice, the hearing was just a procedural hurdle before the final vote. The property-by-property estimates and public hearing, by coming at the end of the process, do not seem to have had the effect that lawmakers might have hoped. Nothing in the legislation constrained local officials' ability to raise property taxes or required voter approval to do so—just input. Even if the attending community expressed their opposition to the increase, the commissioners were still free to vote the increase in. And Nebraskan's property taxes kept increasing.

In an effort to more concretely ease the tax burden on its property owners, Nebraska lawmakers passed LB 1107, the Nebraska Property Tax Incentive Act in 2020, which provided a refundable income tax credit based on the amount of property taxes paid to school districts and community colleges. This credit had to be claimed on state income tax returns. The amount of the credit was calculated as a percentage of the property taxes paid. The Nebraska Department of Revenue determined this percentage annually, based on the total amount of property taxes paid and the funds allocated for the credit. This property tax credit, which was reformed by LB 34 of 2024, is currently worth 30 percent of the school taxes paid on the property.

All property owners who paid school district and community college property taxes are eligible to claim the credit. This includes individuals, corporations, partnerships, and other entities. While the credit provided substantial tax relief, it did nothing to encourage localities and school districts to temper property tax bills, and indeed subsidized them by signaling that the state, using general funds, would defray some of the true increase in the taxes faced by property owners, who would thus be less likely to be upset with the local governments that vote to increase levies on their properties.

In 2023, moreover, an amendment of the Property Tax Credit Act of 2007 allocated further funds for relief against property taxes, based on something called the credit allocation valuation of each parcel of real property compared to the credit allocation valuation of all real property in the state. The credit allocation valuation for agricultural land is 120 percent of taxable value, while for non-agricultural land, it is 100 percent of taxable value. Funded through 2030, the amount of credit allocated for 2024 is $395 million, which amounts to $104.56 per $100,000 in value for non-agricultural land, and $125.48 per $100,000 in value for agricultural land.[13]

13 Nebraska Department of Revenue, "Real Property Tax Credit and Tax Statements Calculations," Directive 24-1 (Sep. 13, 2024), https://revenue.nebraska.gov/sites/default/files/doc/pad/legal/dir_24-1_Real_Property_Tax_Credit.pdf.

One consequence of Nebraska's current fractured approach to property tax relief is a splintering of its school finance model. At the most basic level, all states have shared state and local responsibility for school funding, with local taxes—typically local property taxes—as the predominant source of funding, supplemented by state resources, particularly in service of some level of funding equalization. In Nebraska, equalization aid—additional funding to school districts where needs outstrip local resources—is governed by the Tax Equity and Educational Opportunities Support Act (TEEOSA). A so-called "local effort rate" determines how much local governments are expected to raise themselves in property taxes for school funding purposes.[14]

In practice, however, the state's multiple forays into property tax relief have complicated this process. When the state provides credits to defray property tax liability, that constitutes an implicit subsidization of local school finance above and beyond what TEEOSA was designed to provide. By reducing the degree to which higher property taxes directly burden homeowners in the jurisdiction in which they are levied—with part of the cost instead being shared by taxpayers across the state—it weakens local incentives to keep property taxes in check or to spend education dollars wisely.

With each offset, the state further reduces the direct cost of higher property taxes, making it easier for local governments to raise them (or to allow them to rise in line with rising property values), potentially prompting another round of state relief. All the while, the flow of state dollars to public education becomes more distorted.

Ultimately, Nebraska may wish to tackle additional important questions about school finance: how much should be funded at each level of government, and under what formula. But the state's current patchwork approach to property tax relief is at cross purposes with intentionality in those distributions.

With multiple credits, multiple revenue limits, multiple transparency laws, and a complex interaction with school financing, the system grew increasingly byzantine, and none of these efforts fully stemmed the tide of property tax hikes.

Evaluating LB 34

Legislative Bill 34 emerged as a compromise through several iterations of legislation in a special session called by the governor in August.

The first part of the bill, termed the School District Property Tax Relief Act, created a pool of money dedicated for school district property tax relief, with an initial allocation of $750 million for fiscal year 2025, increasing by specified amounts for a total 5-year appropriation of $4.9 billion through fiscal year 2030. Subsequently, funding is to grow by 3 percent each year. Payments from this fund would be applied directly to property tax bills so that taxpayers would not have to claim this tax credit on their income tax returns, as was the norm under the Nebraska Property Tax Incentive Act's credits, which this supplants.

14 TEEOSA consists of several components. The formula calculates the needs of each school district based on factors like basic funding, poverty allowance, limited English proficiency allowance, focus school and program allowance, summer school allowance, etc. This takes into account the number of students educated by the district and students for whom the district pays tuition. Each district's general fund operating expenditures are considered, adjusted by a cost growth factor. Equalization aid for each district is calculated by subtracting its calculated resources from its calculated needs.

This revised structure benefits taxpayers, as they will pay less in real estate taxes directly rather than needing to claim the credit the following year, when they file taxes. This should particularly ease the burden on lower-income homeowners, for whom the delayed refund could pose a hardship. Furthermore, according to the revenue department, 45 percent of eligible taxpayers were not claiming this credit under the previous system. This legislation would ensure that everyone who is eligible for this benefit will automatically do so even if they do not file income taxes. Finally, applying the credit directly against property tax bills has the added benefit of making the relief more evident to taxpayers, who might otherwise contemplate their tax burden solely in terms of the initial amount owed, and not net of the credit they receive later reducing their income tax burden.

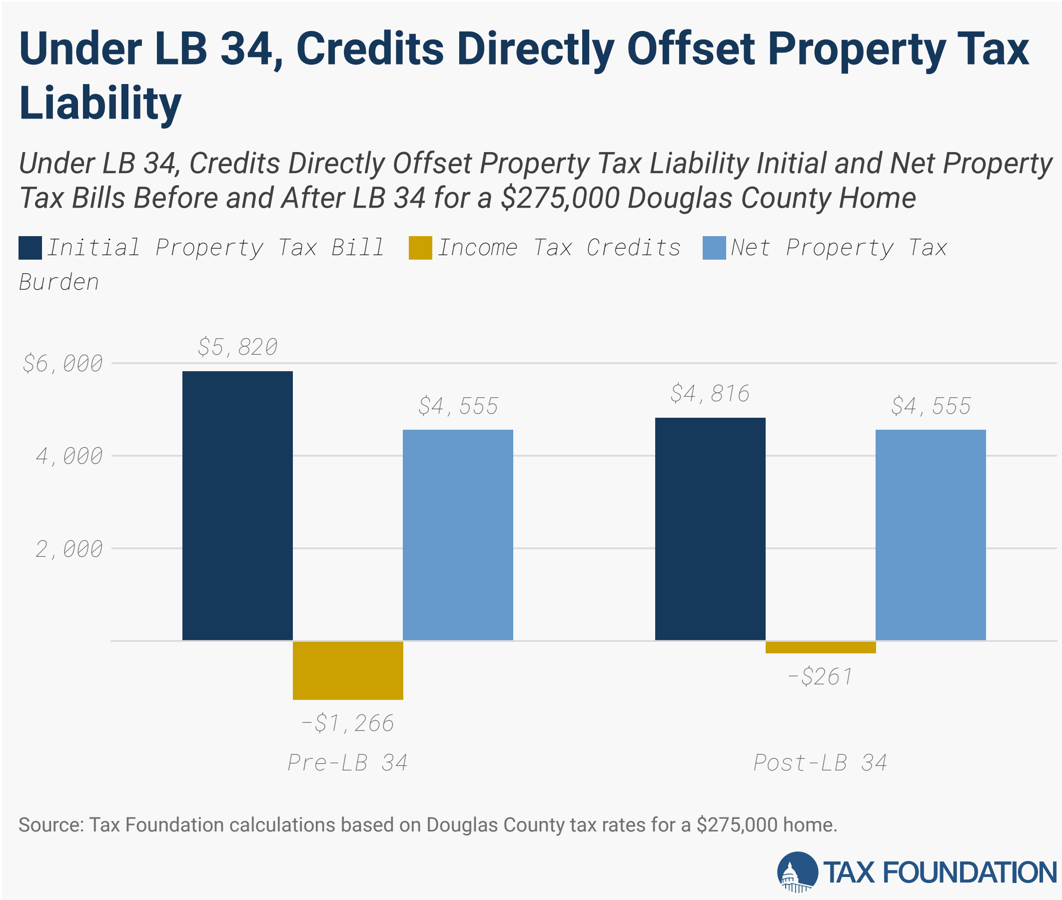
Counties' share of the annual disbursement will be equivalent to the ratio of the school district real property taxes collected by that county in the prior year to the total collected by all counties in the state. The credit granted to each taxpayer would also be in proportion to school district levies on their property as a ratio of the total collected by their respective counties. This credit, however, cannot apply against property tax levies made against the repayment of any school district bonds, which are issued only after voter approval.

Imagine an Omaha homeowner with a $275,000 home. Both before and after this reform to the state's property tax credits, the homeowner's *net* property tax liability would be an estimated $4,555. But *how* and *when* the tax is paid varies considerably. Under the previous system, the owner would remit $5,820 in property taxes and then later be eligible for a $1,266 credit against income taxes. Under the new system, most of the credits (all except those for community college district taxes) would be applied directly to the homeowner's property tax liability, resulting in an initial property tax bill of $4,816 (down from $5,820), with a further $261 in income tax credits. Both systems net to the same liability ($4,555), but one requires a much larger initial payment.

A final significant feature of this component of LB 34 is legislation obligating certain excess funds to property tax relief. Under current law, when actual revenues for a given fiscal year exceed the estimated receipts on which the adopted budget was based, the supplemental revenue is directed to the Cash Reserve Fund, which provides a buffer during economic downturns. Under the new language of LB 34, however, only revenues up to 3 percent above projection are earmarked for the Cash Reserve Fund, with any further surplus transferred to the School District Property Tax Relief Credit Fund. This lays the groundwork for ever-larger state responsibility for funding local government and undercuts the state government's own ability to prepare for a rainy day.

It should be emphasized that contrary to some mistaken descriptions of LB 34, this provision does *not* limit the overall growth of state revenues to 3 percent per year, or to any specific amount. Instead, it obligates funds that come in above budget for any given year. This is still a constraint, however. Imagine that during a recession, forecasters predict a 10 percent reduction in state revenues, but, fortunately, the loss is "only" 5 percent. This would leave revenues at 5.6 percent above forecast, obligating some revenue to be transferred to additional property tax relief that might better be spent on state budgetary obligations. Note that, even if lawmakers could not cancel the redirection of funds to the Cash Reserve Fund, they might also be in a position to tap that fund to meet obligations, something they cannot do with money transferred to the property tax credit fund.

Figure 5.



The second major component of LB 34 is the Property Tax Growth Limitation Act, which institutes a new cap on local property taxes beginning in fiscal year 2026. The cap is equal to the greater of zero percent (no growth) or a (quasi-) inflation percentage as measured by the state and local consumption expenditures and gross investment (SLCE) metric rather than by the consumer price index (CPI), which is more commonly used and which was proposed in an earlier version of the tax cap plan.

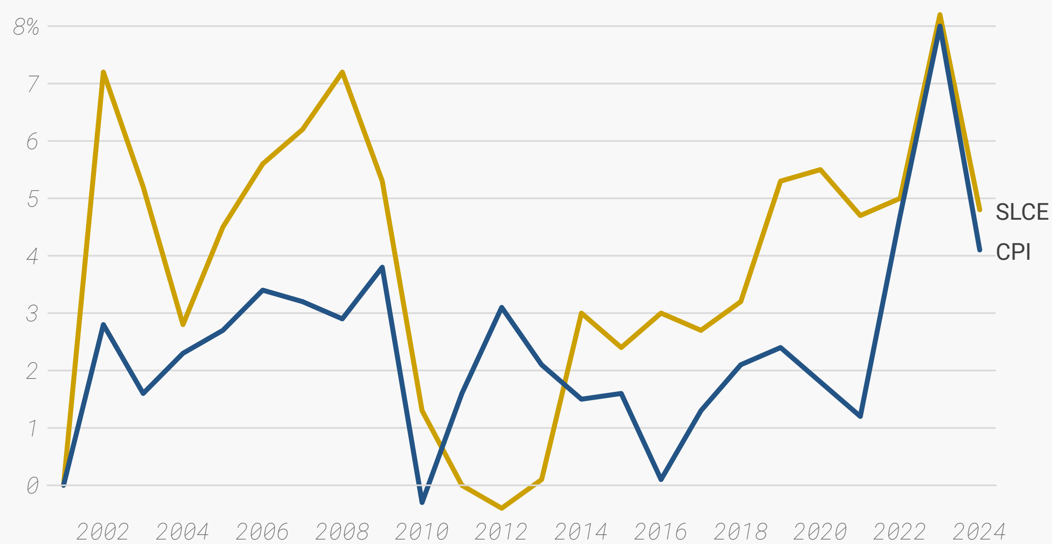
Notably, an SLCE-based cap is typically far more lenient than one based on CPI—and also less rational. Over the past 20 years, the CPI averaged 2.6 percent increases, while the SLCE reported an average growth rate of 3.9 percent. More importantly, however, the two indices measure fundamentally different things. The consumer price index measures inflation as traditionally understood; the state and local consumption expenditures index measures actual levels of government spending at the state and local level. While CPI is an imperfect measure of increases in the cost of providing government services (since those costs may vary somewhat from changes in consumer prices), it is still measuring roughly the appropriate thing: the rising cost of providing a similar level of services. SLCE, by contrast, is measuring *policy*: an SLCE limit only constrains the growth of property tax revenues to the average amount of increase in state and local expenditures nationwide.

Sometimes this measure will be too lenient, but it is also possible for it to be too stringent, because it is fundamentally the wrong measure. Consider how the annual change in CPI and SLCE levels have diverged since 2020, particularly noting the impact of the Great Recession, when state and local governments had to tighten their belts. Prior to the recession, SLCE grew notably faster than CPI, but during the recession, SLCE plummeted below CPI. If policymakers' goal is to account for changes in the cost of government, they should not rely on a metric that takes into account not just the measured increases in the cost of providing the same bundle of services but also the costs of discretionary policies changing the size of state and local government.

Figure 6.

SLCE Is a Poor Measure of Government Cost Increases

Annual Change in CPI vs. SLCE, 2000-2024



Source: US Bureau of Economic Analysis, "State and Local Consumption Expenditures & Gross Investment"; US Bureau of Labor Statistics, "Consumer Price Index."

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The Unicameral was not without reason in settling on SLCE. A CPI cap is arguably too stingy, and most states with levy limits allow some growth above inflation. Far better, however, to use an actual measure of inflation and then allow some additional growth factor, like, for instance, CPI plus 1.5 or 2 percent, rather than relying on SLCE, which may tie the hands of local governments in some years while allowing large tax increases—precisely what LB 34 was supposed to prevent—in others. Nebraska has an unfortunate history of property tax relief measures that failed to function as advertised. With its current design, the new property tax growth limitation cap threatens to join that unfortunate list of valiant, but ultimately unreliable, efforts to keep property taxes in check.

Still, this is the first true levy limit the state has ever had. It's flawed, but it's also a framework from which to offer meaningful relief.

Several items fall outside the purview of this cap. Repayment of approved bonds, responses to emergencies, and public safety services may increase without regard to this limit. Localities may also approach voters to approve increases beyond the cap. Frugal political subdivisions can carry forward unused property tax request authority, up to a limit of 5 percent of the prior year's authorization. This provides the localities with some flexibility without requiring them to impose higher taxes every year against the threat of losing out on increased revenues in the future when they might really need them.

The state costs of LB 34 are concentrated in the revised credit, which amounts to an additional $185 million to the existing property tax relief budget. These additional costs arise from full take-up of the credit, since it will now be applied automatically and will not rely on taxpayers applying the credit against income tax liability. To cover these increased costs, the legislature also pared down some budget line items under LB 2 in the same special session. That bill cuts approximately $116 million in lapsed funds from various government programs. This includes $10 million from the Department of Corrections, $35 million from the emergency fund, $43.2 million from the Department of Health and Human Services, and $7.7 million from the Crime Commission.[15] In addition, the legislature also authorized $22 million in cash fund transfers to the general fund from various agencies and through increased fees. Another $46 million would come from state cash reserves.

Notably, Nebraska enjoyed a historic $1.9 billion budget surplus in the last fiscal year. However, tax cuts and new property tax relief may affect its budget situation, especially since the new legislation does not impose consistent fiscal discipline at the municipal level and provides no incentives for reductions.

Next Steps

An effective framework for constraining the growth of property taxes and providing meaningful taxpayer relief should be straightforward, easy to monitor, and politically feasible. Unfortunately, the recent enactment of LB 34, while well-intended, adds to the complexity of the existing system and overcorrects in detrimental ways. The Nebraska Unicameral should take the opportunity to, with the benefit of additional time, adjust the special session's new laws to better calibrate them to ensure both taxpayer relief and revenue stability.

The design of the levy limit in LB 34 may be due to the pervasive belief that Nebraska already has levy limits, but that they proved toothless—when in fact, Nebraska has never had a binding levy limit before. Lawmakers may have been wary of allowing any sort of growth factor because they viewed it as a repeat of Nebraska's 2.5 percent general revenue cap or its 2 percent truth in taxation regime, neither of which has done enough to constrain the growth of property taxes.

Instead of limiting property tax revenue increases to the average rate of state and local government spending growth nationwide, it would be far better if the limitation were constructed around a traditional inflation measure like CPI, plus an additional 2 percent over the previous year's expenditures. This approach provides local governments with the ability to adjust to inflationary pressures and permits modest growth, but with a basis in actual economic factors, not the policy choices of other states. If other state and local governments choose to be profligate, that should not allow Nebraska property taxes to rise precipitously. And if, conversely, an economic downturn results in spending reductions elsewhere, that should not restrict Nebraska localities' ability to collect at least as much in real terms as they did the preceding year.

15 Nebraska Legislature, "Fiscal Note for LB 2," Aug. 15, 2024, https://nebraskalegislature.gov/FloorDocs/108/PDF/FN/LB2_S1_20240815-124707.pdf.

Fortunately, the Property Tax Growth Limitation Act gets many technical details right. These would not require any amendment, but are worth spelling out here, as important elements of any well-designed levy limit.

First, the levy limit is based on the amount of tax that would be collected from existing property. To accomplish this, the new law excludes from the calculation any growth from new construction, improvements, annexation, change in use, and the like. The rationale for this is straightforward: the goal is to avoid unlegislated tax increases resulting from rising property values, not to restrict the ability of local governments to collect additional revenue from a new housing development, a new office park, or a change in political boundaries. Additional structures create additional costs and obligations, and it is only natural that they would generate additional tax revenue.

Of course, all properties—new and existing—would benefit from any rate reductions yielded by the levy limit. But in determining the degree to which millages should be rolled back, LB 34 rightly considers only the increased collections that would be generated by property that was part of the prior year's tax base.

Second, the levy limit involves a voter override. This too is necessary. Sometimes a jurisdiction may have good reason to increase revenues above the allowable growth factor. Well-designed levy limits do not prohibit this. They make the increase transparent and put the decision in the hands of voters, who can decide whether to authorize an override. The beneficial effect of levy limits is to crack down on unlegislated tax increases that result from appreciation in property values, without anyone—local officials or the general public—ever casting a vote to raise taxes.

Such override provisions force any significant increase to be a conscious choice, and one ratified by the voters, which is markedly different from a hidden, unlegislated tax increase. To this end, it may also be advisable for lawmakers to amend Nebraska's truth in taxation laws to align them with this process, ensuring that homeowners receive details on the impact of a proposed tax increase on their property in advance of any ballot measure.

While truth in taxation has lent transparency to the local budget process, absent true levy limits, it has failed to check increases in spending and property taxes, which are already some of the highest in the nation. Between 2017 and 2022, before the current TNT law, property taxes in Nebraska grew at an inflation-adjusted rate of 3.8 percent per year. Between 2022 and 2023, the first fiscal year after the passage of the Property Tax Request Act, average real expenditures among local governments in Nebraska grew by 5 percent. So, while the public hearings allow taxpayers to see how their money is being spent and how much more they would be paying the following year, their effect on the growth of spending and property taxes may be limited.

With appropriate revisions, truth in taxation would ensure that the general public and property owners are adequately informed of the details of any proposal to increase property taxes above CPI plus 2 percent, which would have to be ratified at the ballot box. For any increase below that level, local officials would retain the authority to act without seeking a voter override but would remain subject to truth in taxation requirements—ideally tightened ones. Lawmakers could explore adjusting the timing of public notice and information and requiring that any final vote on an increase take place at a second hearing, rather than immediately following public input on which local officials may have little opportunity to act under the current system, where the process has essentially concluded by the time public input is sought.

Finally, lawmakers should reconsider the requirement, enshrined in the School District Property Tax Relief Act, that any revenues above 103 percent of the year's projected revenue be dedicated to property tax relief. Nebraska's heavy reliance on mere tax shifting to reduce property tax burdens is already economically inefficient and reduces the pressure on local governments to prioritize their own tax competitiveness. It would, however, be virtually impossible to put the genie back in the bottle, and doing so now would yield significant increases in effective tax rates on homeowners, which is clearly undesirable even if these offsets are funded by other, less efficient taxes. Doubling down on this policy at the cost of the state's revenue reserves, however, is ill-advised, and is best reversed before it takes effect.

A well-designed set of reforms can help ensure that Nebraska achieves the outcome lawmakers wanted from LB 34 and from the broader deliberations from which it arose: providing meaningful property tax relief and constraining the future growth of property tax burdens, all while continuing to prioritize Nebraska's overall tax competitiveness and prospects for economic growth.