

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 643

Introduced by Raikes, 25

Read first time January 17, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities
2 Support Act; to amend section 79-1017.01, Reissue Revised
3 Statutes of Nebraska, sections 79-1008.02 and 79-1009,
4 Revised Statutes Cumulative Supplement, 2006, and section
5 79-1003, Revised Statutes Cumulative Supplement, 2006,
6 as affected by Referendum 2006, No. 422; to change
7 and eliminate provisions relating to allocated income
8 tax; to repeal the original sections; and to outright
9 repeal section 79-1005.01, Revised Statutes Cumulative
10 Supplement, 2006.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Revised Statutes Cumulative
2 Supplement, 2006, as affected by Referendum 2006, No. 422, is
3 amended to read:

4 79-1003 For purposes of the Tax Equity and Educational
5 Opportunities Support Act:

6 (1) Adjusted general fund operating expenditures means
7 (a) for school fiscal years before school fiscal year 2007-08,
8 general fund operating expenditures as calculated pursuant to
9 subdivision (24) of this section minus the transportation allowance
10 and minus the special receipts allowance, (b) for school fiscal
11 year 2007-08, general fund operating expenditures as calculated
12 pursuant to subdivision (24) of this section minus the sum of
13 the transportation, special receipts, and distance education and
14 telecommunications allowances, and (c) for school fiscal year
15 2008-09 and each school fiscal year thereafter, the difference
16 of the product of the general fund operating expenditures as
17 calculated pursuant to subdivision (24) of this section multiplied
18 by the cost growth factor for the school district's cost grouping
19 calculated pursuant to section 79-1007.10 minus the transportation
20 allowance, special receipts allowance, poverty allowance, limited
21 English proficiency allowance, elementary class size allowance, and
22 focus school and program allowance;

23 (2) Adjusted valuation means the assessed valuation of
24 taxable property of each local system in the state, adjusted
25 pursuant to the adjustment factors described in section 79-1016.

1 Adjusted valuation means the adjusted valuation for the property
2 tax year ending during the school fiscal year immediately preceding
3 the school fiscal year in which the aid based upon that value is
4 to be paid. For purposes of determining the local effort rate yield
5 pursuant to section 79-1015.01, adjusted valuation does not include
6 the value of any property which a court, by a final judgment from
7 which no appeal is taken, has declared to be nontaxable or exempt
8 from taxation;

9 (3) Allocated income tax funds means, for school fiscal
10 years prior to school fiscal year 2008-09, the amount of assistance
11 paid to a local system pursuant to section ~~79-1005.01~~ ~~or~~ 79-1005.02
12 as adjusted by the minimum levy adjustment pursuant to section
13 79-1008.02;

14 (4) Average daily attendance of a student who resides on
15 Indian land means average daily attendance of a student who resides
16 on Indian land from the most recent data available on November 1
17 preceding the school fiscal year in which aid is to be paid;

18 (5) Average daily membership means the average daily
19 membership for grades kindergarten through twelve attributable to
20 the local system, as provided in each district's annual statistical
21 summary, and includes the proportionate share of students enrolled
22 in a public school instructional program on less than a full-time
23 basis;

24 (6) Base fiscal year means the first school fiscal year
25 following the school fiscal year in which the reorganization or

1 unification occurred;

2 (7) Board means the school board of each school district;

3 (8) Categorical funds means funds limited to a specific
4 purpose by federal or state law, including, but not limited to,
5 Title I funds, Title VI funds, federal vocational education funds,
6 federal school lunch funds, Indian education funds, Head Start
7 funds, and funds from the Education Innovation Fund;

8 (9) Consolidate means to voluntarily reduce the number of
9 school districts providing education to a grade group and does not
10 include dissolution pursuant to section 79-498;

11 (10) Converted contract means an expired contract that
12 was in effect for at least fifteen years for the education of
13 students in a nonresident district in exchange for tuition from
14 the resident district when the expiration of such contract results
15 in the nonresident district educating students who would have been
16 covered by the contract if the contract were still in effect
17 as option students pursuant to the enrollment option program
18 established in section 79-234;

19 (11) Converted contract option students means students
20 who will be option students pursuant to the enrollment option
21 program established in section 79-234 for the school fiscal year
22 for which aid is being calculated and who would have been covered
23 by a converted contract if the contract were still in effect and
24 such school fiscal year is the first school fiscal year for which
25 such contract is not in effect;

1 (12) Department means the State Department of Education;

2 (13) Distance education and telecommunications allowance
3 means, for state aid calculated for school fiscal year 2007-08
4 and each school fiscal year thereafter, eighty-five percent of
5 the difference of the costs for (a) telecommunications services,
6 (b) access to data transmission networks that transmit data to
7 and from the school district, and (c) the transmission of data
8 on such networks paid by the school districts in the local
9 system as reported on the annual financial report for the most
10 recently available complete data year minus the receipts from the
11 federal Universal Service Fund pursuant to section 254 of the
12 Telecommunications Act of 1996, 47 U.S.C. 254, as such section
13 existed on January 1, 2006, for the school districts in the local
14 system as reported on the annual financial report for the most
15 recently available complete data year;

16 (14) District means any Class I, II, III, IV, V, or VI
17 school district;

18 (15) Ensuing school fiscal year means the school fiscal
19 year following the current school fiscal year;

20 (16) Equalization aid means the amount of assistance
21 calculated to be paid to a local system pursuant to sections
22 79-1008.01 to 79-1022 and 79-1022.02;

23 (17) Fall membership means the total membership in
24 kindergarten through grade twelve attributable to the local system
25 as reported on the fall school district membership reports for each

1 district pursuant to section 79-528;

2 (18) Fiscal year means the state fiscal year which is the
3 period from July 1 to the following June 30;

4 (19) Formula students means (a) for state aid certified
5 pursuant to section 79-1022, the sum of fall membership from the
6 school fiscal year immediately preceding the school fiscal year in
7 which the aid is to be paid, multiplied by the average ratio of
8 average daily membership to fall membership for the second school
9 fiscal year immediately preceding the school fiscal year in which
10 aid is to be paid and the prior two school fiscal years, plus
11 qualified early childhood education fall membership plus tuitioned
12 students from the school fiscal year immediately preceding the
13 school fiscal year in which the aid is to be paid and (b) for final
14 calculation of state aid pursuant to section 79-1065, the sum of
15 average daily membership plus qualified early childhood education
16 average daily membership plus tuitioned students from the school
17 fiscal year immediately preceding the school fiscal year in which
18 the aid was paid;

19 (20) Free lunch and free milk student means a student
20 who qualified for free lunches or free milk from the most recent
21 data available on November 1 of the school fiscal year immediately
22 preceding the school fiscal year in which aid is to be paid;

23 (21) Full-day kindergarten means kindergarten offered by
24 a district for at least one thousand thirty-two instructional
25 hours;

1 (22) General fund budget of expenditures means the total
2 budget of disbursements and transfers for general fund purposes as
3 certified in the budget statement adopted pursuant to the Nebraska
4 Budget Act, except that for purposes of the limitation imposed in
5 section 79-1023, the calculation of Class I total allowable general
6 fund budget of expenditures minus the special education budget of
7 expenditures pursuant to section 79-1083.03, and the calculation
8 pursuant to subdivision (2) of section 79-1027.01, the general fund
9 budget of expenditures does not include any special grant funds,
10 exclusive of local matching funds, received by a district subject
11 to the approval of the department;

12 (23) General fund expenditures means all expenditures
13 from the general fund;

14 (24) General fund operating expenditures means the total
15 general fund expenditures minus categorical funds, tuition paid,
16 transportation fees paid to other districts, adult education,
17 summer school, community services, redemption of the principal
18 portion of general fund debt service, retirement incentive plans,
19 staff development assistance, and transfers from other funds into
20 the general fund for the second school fiscal year immediately
21 preceding the school fiscal year in which aid is to be paid;

22 (25) High school district means a school district
23 providing instruction in at least grades nine through twelve;

24 (26) Income tax liability means the amount of the
25 reported income tax liability for resident individuals pursuant

1 to the Nebraska Revenue Act of 1967 less all nonrefundable credits
2 earned and refunds made;

3 (27) Income tax receipts means the amount of income tax
4 collected pursuant to the Nebraska Revenue Act of 1967 less all
5 nonrefundable credits earned and refunds made;

6 (28) Limited English proficiency student means a student
7 with limited English proficiency from the most recent data
8 available on November 1 of the school fiscal year preceding
9 the school fiscal year in which aid is to be paid;

10 (29) Local system means a Class VI district and the
11 associated Class I districts or a Class II, III, IV, or V district
12 and any affiliated Class I districts or portions of Class I
13 districts and for school fiscal year 2008-09 and each school fiscal
14 year thereafter, a learning community or a Class II, III, IV,
15 or V district that is not a member of a learning community.
16 The membership, expenditures, and resources of Class I districts
17 that are affiliated with multiple high school districts will be
18 attributed to local systems based on the percent of the Class I
19 valuation that is affiliated with each high school district;

20 (30) Low-income child means (a) for school fiscal years
21 prior to 2008-09, a child under nineteen years of age living in
22 a household having an annual adjusted gross income of fifteen
23 thousand dollars or less for the second calendar year preceding
24 the beginning of the school fiscal year for which aid is being
25 calculated and (b) for school fiscal year 2008-09 and each school

1 fiscal year thereafter, a child under nineteen years of age living
2 in a household having an annual adjusted gross income for the
3 second calendar year preceding the beginning of the school fiscal
4 year for which aid is being calculated equal to or less than the
5 maximum household income that would allow a student from a family
6 of four people to be a free lunch and free milk student during the
7 school fiscal year immediately preceding the school fiscal year for
8 which aid is being calculated;

9 (31) Low-income students means the number of low-income
10 children within the local system multiplied by the ratio of the
11 formula students in the local system divided by the total children
12 under nineteen years of age residing in the local system as derived
13 from income tax information;

14 (32) Most recently available complete data year means
15 the most recent single school fiscal year for which the annual
16 financial report, fall school district membership report, annual
17 statistical summary, Nebraska income tax liability by school
18 district for the calendar year in which the majority of the school
19 fiscal year falls, and adjusted valuation data are available;

20 (33) Poverty students means the number of low-income
21 students or the number of formula students who are free lunch and
22 free milk students in a local system, whichever is greater;

23 (34) Qualified early childhood education average daily
24 membership means the product of the average daily membership for
25 school fiscal year 2006-07 and each school fiscal year thereafter

1 of students who will be eligible to attend kindergarten the
2 following school year and are enrolled in an early childhood
3 education program approved by the department pursuant to section
4 79-1103 for such school district for such school year if: (a)
5 The program is receiving a grant pursuant to such section for the
6 third year; (b) the program has already received grants pursuant to
7 such section for three years; or (c) the program has been approved
8 pursuant to subsection (5) of section 79-1103 for such school year
9 and the two preceding school years, including any such students
10 in portions of any of such programs receiving an expansion grant,
11 multiplied by the ratio of the actual instructional hours of the
12 program divided by one thousand thirty-two;

13 (35) Qualified early childhood education fall membership
14 means the product of membership on the last Friday in September
15 2006 and each year thereafter of students who will be eligible
16 to attend kindergarten the following school year and are enrolled
17 in an early childhood education program approved by the department
18 pursuant to section 79-1103 for such school district for such
19 school year if: (a) The program is receiving a grant pursuant
20 to such section for the third year; (b) the program has already
21 received grants pursuant to such section for three years; or (c)
22 the program has been approved pursuant to subsection (5) of section
23 79-1103 for such school year and the two preceding school years,
24 including any such students in portions of any of such programs
25 receiving an expansion grant, multiplied by the ratio of the

1 planned instructional hours of the program divided by one thousand
2 thirty-two;

3 (36) Regular route transportation means the
4 transportation of students on regularly scheduled daily routes to
5 and from the attendance center;

6 (37) Reorganized district means any district involved
7 in a consolidation and currently educating students following
8 consolidation;

9 (38) School year or school fiscal year means the fiscal
10 year of a school district as defined in section 79-1091;

11 (39) Special education means specially designed
12 kindergarten through grade twelve instruction pursuant to section
13 79-1125, and includes special education transportation;

14 (40) Special grant funds means the budgeted receipts for
15 grants, including, but not limited to, Title I funds, Title VI
16 funds, funds from the Education Innovation Fund, reimbursements
17 for wards of the court, short-term borrowings including, but
18 not limited to, registered warrants and tax anticipation notes,
19 interfund loans, insurance settlements, and reimbursements to
20 county government for previous overpayment. The state board shall
21 approve a listing of grants that qualify as special grant funds;

22 (41) Special receipts allowance means the amount of
23 special education, state ward, and accelerated or differentiated
24 curriculum program receipts included in local system formula
25 resources under subdivisions (7), (8), (16), and (17) of section

1 79-1018.01 attributable to the school district;

2 (42) State aid means the amount of assistance paid to a
3 district pursuant to the Tax Equity and Educational Opportunities
4 Support Act;

5 (43) State board means the State Board of Education;

6 (44) State support means all funds provided to districts
7 by the State of Nebraska for the general fund support of elementary
8 and secondary education;

9 (45) Temporary aid adjustment factor means (a) for school
10 fiscal years before school fiscal year 2007-08, one and one-fourth
11 percent of the sum of the local system's transportation allowance,
12 the local system's special receipts allowance, and the product
13 of the local system's adjusted formula students multiplied by
14 the average formula cost per student in the local system's cost
15 grouping and (b) for school fiscal year 2007-08 and each school
16 fiscal year thereafter, one and one-fourth percent of the sum
17 of the local system's transportation allowance, special receipts
18 allowance, and distance education and telecommunications allowance
19 and the product of the local system's adjusted formula students
20 multiplied by the average formula cost per student in the local
21 system's cost grouping;

22 (46) Transportation allowance means the lesser of (a)
23 each local system's general fund expenditures for regular route
24 transportation and in lieu of transportation expenditures pursuant
25 to section 79-611 in the second school fiscal year immediately

1 preceding the school fiscal year in which aid is to be paid,
2 but not including special education transportation expenditures or
3 other expenditures previously excluded from general fund operating
4 expenditures, or (b) the number of miles traveled in the second
5 school fiscal year immediately preceding the school fiscal year in
6 which aid is to be paid by vehicles owned, leased, or contracted
7 by the district or the districts in the local system for the
8 purpose of regular route transportation multiplied by four hundred
9 percent of the mileage rate established by the Department of
10 Administrative Services pursuant to section 81-1176 as of January 1
11 of the most recently available complete data year added to in lieu
12 of transportation expenditures pursuant to section 79-611 from the
13 same data year;

14 (47) Tuition receipts from converted contracts means
15 tuition receipts received by a district from another district
16 in the most recently available complete data year pursuant to a
17 converted contract prior to the expiration of the contract; and

18 (48) Tuitioned students means students in kindergarten
19 through grade twelve of the district whose tuition is paid by the
20 district to some other district or education agency.

21 Sec. 2. Section 79-1008.02, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 79-1008.02 A minimum levy adjustment shall be calculated
24 and applied to any local system that has a general fund common levy
25 in the calendar year in which aid is certified that is less than

1 ninety percent of the maximum levy allowed pursuant to subdivision
2 (2) (a) or (b) of section 77-3442 without a vote pursuant to
3 section 77-3444. To calculate the minimum levy adjustment, the
4 department shall subtract the local system general fund common levy
5 in the calendar year when aid is certified from ninety percent
6 of the maximum levy allowed pursuant to subdivision (2) (a) or
7 (b) of section 77-3442 without a vote pursuant to section 77-3444
8 and multiply the result by the local system's adjusted valuation
9 divided by one hundred. The minimum levy adjustment shall be added
10 to the formula resources of the local system for the determination
11 of equalization aid pursuant to section 79-1008.01. ~~If~~ For school
12 fiscal years prior to school fiscal year 2008-09, if the minimum
13 levy adjustment is greater than or equal to the allocated income
14 tax funds calculated pursuant to section ~~79-1005.01~~ ~~or~~ 79-1005.02,
15 the local system shall not receive allocated income tax funds. ~~If~~
16 For school fiscal years prior to school fiscal year 2008-09, if
17 the minimum levy adjustment is less than the allocated income tax
18 funds calculated pursuant to section ~~79-1005.01~~ ~~or~~ 79-1005.02, the
19 local system shall receive allocated income tax funds in the amount
20 of the difference between the allocated income tax funds calculated
21 pursuant to section ~~79-1005.01~~ ~~or~~ 79-1005.02 and the minimum levy
22 adjustment. This section does not apply to the calculation of aid
23 for a local system containing a learning community for the first
24 school fiscal year for which aid is calculated for such local
25 system.

1 Sec. 3. Section 79-1009, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 79-1009 For school fiscal years prior to school fiscal
4 year 2008-09:

5 (1) A district shall receive net option funding if option
6 students as defined in section 79-233 (a) were actually enrolled in
7 the school year immediately preceding the school year in which the
8 aid is to be paid or (b) will be enrolled in the school year in
9 which the aid is to be paid as converted contract option students;
10 -

11 (2) For purposes of this section: (a) For all school
12 fiscal years except school fiscal years 2002-03 through 2007-08,
13 net option funding means the sum of the products of the net
14 number of option students in each grade range multiplied by the
15 statewide average cost grouping cost per student multiplied by
16 the weighting factor for the corresponding grade range pursuant to
17 section 79-1007.01; and (b) for school fiscal years 2002-03 through
18 2007-08, net option funding shall be calculated by subtracting the
19 temporary aid adjustment factor from the sum of the products of the
20 net number of option students in each grade range multiplied by
21 the statewide average cost grouping cost per student multiplied by
22 the weighting factor for the corresponding grade range pursuant to
23 section 79-1007.01, except that a local system's net option funding
24 shall not be less than zero. Net number of option students means
25 the number of option students actually enrolled in a grade range

1 in the current data year minus the number of students residing in
2 the district but enrolled in another district in the same grade
3 range in the current data year as option students as defined in
4 section 79-233. A district's net option funding shall be zero if
5 the calculation produces a negative result; -

6 (3) The determination of the net number of option
7 students shall be based on (a) the number of option students
8 enrolled in the district or enrolled in another district as of
9 the day of the fall membership count pursuant to section 79-528,
10 for the school fiscal year immediately preceding the school fiscal
11 year in which the aid is to be paid and (b) the number of option
12 students that will be enrolled in the district or enrolled in
13 another district as converted contract option students for the
14 school fiscal year in which the aid is to be paid. Payments made
15 under this section shall be made from the funds to be disbursed
16 under section ~~79-1005.01~~ or 79-1005.02; and -

17 (4) Payments made pursuant to this section shall go
18 directly to the option school district but shall count as a formula
19 resource for the local system.

20 Sec. 4. Section 79-1017.01, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~79-1017.01~~ For school fiscal years prior to school
23 fiscal year 2008-09, local system formula resources includes
24 allocated income tax funds determined for each such district
25 pursuant to the provisions of section ~~79-1005.01~~ or 79-1005.02 and

1 adjustments pursuant to section 79-1008.02.

2 Sec. 5. Original section 79-1017.01, Reissue Revised
3 Statutes of Nebraska, sections 79-1008.02 and 79-1009, Revised
4 Statutes Cumulative Supplement, 2006, and section 79-1003, Revised
5 Statutes Cumulative Supplement, 2006, as affected by Referendum
6 2006, No. 422, are repealed.

7 Sec. 6. The following section is outright repealed:
8 Section 79-1005.01, Revised Statutes Cumulative Supplement, 2006.