

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 364**

Introduced by Fischer, 43.

Read first time January 13, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities  
2 Support Act; to amend sections 79-1003, 79-1007.11,  
3 79-1007.20, 79-1007.23, and 79-1007.25, Revised Statutes  
4 Cumulative Supplement, 2010; to change provisions  
5 relating to calculation of state aid as prescribed; to  
6 repeal the original sections; and to declare an  
7 emergency.  
8 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 79-1003, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3                   79-1003 For purposes of the Tax Equity and Educational  
4 Opportunities Support Act:

5                   (1) Adjusted general fund operating expenditures means  
6 (a) for school fiscal years before school fiscal year 2007-08,  
7 general fund operating expenditures as calculated pursuant to  
8 subdivision (21) of this section minus the transportation allowance  
9 and minus the special receipts allowance, (b) for school fiscal year  
10 2007-08, general fund operating expenditures as calculated pursuant  
11 to subdivision (21) of this section minus the sum of the  
12 transportation, special receipts, and distance education and  
13 telecommunications allowances, (c) for school fiscal year 2008-09,  
14 the difference of the product of the general fund operating  
15 expenditures as calculated pursuant to subdivision (21) of this  
16 section multiplied by the cost growth factor calculated pursuant to  
17 section 79-1007.10 minus the transportation allowance, special  
18 receipts allowance, poverty allowance, limited English proficiency  
19 allowance, distance education and telecommunications allowance,  
20 elementary site allowance, elementary class size allowance, summer  
21 school allowance, and focus school and program allowance, (d) for  
22 school fiscal year 2009-10, the difference of the product of the  
23 general fund operating expenditures as calculated pursuant to  
24 subdivision (21) of this section multiplied by the cost growth factor  
25 calculated pursuant to section 79-1007.10 minus the transportation

1 allowance, special receipts allowance, poverty allowance, limited  
2 English proficiency allowance, distance education and  
3 telecommunications allowance, elementary site allowance, elementary  
4 class size allowance, summer school allowance, instructional time  
5 allowance, and focus school and program allowance, (e) for school  
6 fiscal years 2010-11 through ~~2012-13, 2011-12,~~ the difference of the  
7 product of the general fund operating expenditures as calculated  
8 pursuant to subdivision (21) of this section multiplied by the cost  
9 growth factor calculated pursuant to section 79-1007.10 minus the  
10 transportation allowance, special receipts allowance, poverty  
11 allowance, limited English proficiency allowance, distance education  
12 and telecommunications allowance, elementary site allowance,  
13 elementary class size allowance, summer school allowance,  
14 instructional time allowance, teacher education allowance, and focus  
15 school and program allowance, ~~and~~ (f) for school fiscal year 2012-13,  
16 the difference of the product of the general fund operating  
17 expenditures as calculated pursuant to subdivision (21) of this  
18 section multiplied by the cost growth factor calculated pursuant to  
19 section 79-1007.10 minus the transportation allowance, special  
20 receipts allowance, poverty allowance, limited English proficiency  
21 allowance, distance education and telecommunications allowance,  
22 elementary site allowance, elementary class size allowance, summer  
23 school allowance, and focus school and program allowance, and (g) for  
24 school fiscal year 2013-14 and each school fiscal year thereafter,  
25 the difference of the product of the general fund operating

1 expenditures as calculated pursuant to subdivision (21) of this  
2 section multiplied by the cost growth factor calculated pursuant to  
3 section 79-1007.10 minus the transportation allowance, special  
4 receipts allowance, poverty allowance, limited English proficiency  
5 allowance, distance education and telecommunications allowance,  
6 elementary site allowance, summer school allowance, ~~instructional~~  
7 ~~time allowance, teacher education allowance,~~ and focus school and  
8 program allowance;

9 (2) Adjusted valuation means the assessed valuation of  
10 taxable property of each local system in the state, adjusted pursuant  
11 to the adjustment factors described in section 79-1016. Adjusted  
12 valuation means the adjusted valuation for the property tax year  
13 ending during the school fiscal year immediately preceding the school  
14 fiscal year in which the aid based upon that value is to be paid. For  
15 purposes of determining the local effort rate yield pursuant to  
16 section 79-1015.01, adjusted valuation does not include the value of  
17 any property which a court, by a final judgment from which no appeal  
18 is taken, has declared to be nontaxable or exempt from taxation;

19 (3) Allocated income tax funds means the amount of  
20 assistance paid to a local system pursuant to section 79-1005.01 or  
21 79-1005.02 as adjusted by the minimum levy adjustment pursuant to  
22 section 79-1008.02;

23 (4) Average daily attendance of a student who resides on  
24 Indian land means average daily attendance of a student who resides  
25 on Indian land from the most recent data available on November 1

1 preceding the school fiscal year in which aid is to be paid;

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

7 (6) Base fiscal year means the first school fiscal year  
8 following the school fiscal year in which the reorganization or  
9 unification occurred;

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

11 (8) Categorical funds means funds limited to a specific  
12 purpose by federal or state law, including, but not limited to, Title  
13 I funds, Title VI funds, federal vocational education funds, federal  
14 school lunch funds, Indian education funds, Head Start funds, and  
15 funds from the Education Innovation Fund;

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

19 (10) Department means the State Department of Education;

20 (11) District means any Class I, II, III, IV, V, or VI  
21 school district and, beginning with the calculation of state aid for  
22 school fiscal year 2011-12 and each school fiscal year thereafter, a  
23 unified system as defined in section 79-4,108;

24 (12) Ensuing school fiscal year means the school fiscal  
25 year following the current school fiscal year;

1                   (13) Equalization aid means the amount of assistance  
2     calculated to be paid to a local system pursuant to sections  
3     79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and  
4     79-1022.02;

5                   (14) Fall membership means the total membership in  
6     kindergarten through grade twelve attributable to the local system as  
7     reported on the fall school district membership reports for each  
8     district pursuant to section 79-528;

9                   (15) Fiscal year means the state fiscal year which is the  
10    period from July 1 to the following June 30;

11                   (16) Formula students means:

12                   (a) For school fiscal years prior to school fiscal year  
13    2008-09, (i) for state aid certified pursuant to section 79-1022, the  
14    sum of fall membership from the school fiscal year immediately  
15    preceding the school fiscal year in which the aid is to be paid,  
16    multiplied by the average ratio of average daily membership to fall  
17    membership for the second school fiscal year immediately preceding  
18    the school fiscal year in which aid is to be paid and the prior two  
19    school fiscal years, plus qualified early childhood education fall  
20    membership plus tuitioned students from the school fiscal year  
21    immediately preceding the school fiscal year in which the aid is to  
22    be paid and (ii) for final calculation of state aid pursuant to  
23    section 79-1065, the sum of average daily membership plus qualified  
24    early childhood education average daily membership plus tuitioned  
25    students from the school fiscal year immediately preceding the school

1 fiscal year in which the aid was paid; and

2 (b) For school fiscal year 2008-09 and each school fiscal  
3 year thereafter, (i) for state aid certified pursuant to section  
4 79-1022, the sum of the product of fall membership from the school  
5 fiscal year immediately preceding the school fiscal year in which the  
6 aid is to be paid multiplied by the average ratio of average daily  
7 membership to fall membership for the second school fiscal year  
8 immediately preceding the school fiscal year in which the aid is to  
9 be paid and the prior two school fiscal years plus sixty percent of  
10 the qualified early childhood education fall membership plus  
11 tuitioned students from the school fiscal year immediately preceding  
12 the school fiscal year in which aid is to be paid minus the product  
13 of the number of students enrolled in kindergarten that is not full-  
14 day kindergarten from the fall membership multiplied by 0.5 and (ii)  
15 for final calculation of state aid pursuant to section 79-1065, the  
16 sum of average daily membership plus sixty percent of the qualified  
17 early childhood education average daily membership plus tuitioned  
18 students minus the product of the number of students enrolled in  
19 kindergarten that is not full-day kindergarten from the average daily  
20 membership multiplied by 0.5 from the school fiscal year immediately  
21 preceding the school fiscal year in which aid was paid;

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

1                   (18) Full-day kindergarten means kindergarten offered by  
2 a district for at least one thousand thirty-two instructional hours;

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

11                   (20) General fund expenditures means all expenditures  
12 from the general fund;

13                   (21) General fund operating expenditures means:

14                   (a) For state aid calculated for school fiscal years  
15 prior to school fiscal year 2008-09, the total general fund  
16 expenditures minus categorical funds, tuition paid, transportation  
17 fees paid to other districts, adult education, summer school,  
18 community services, redemption of the principal portion of general  
19 fund debt service, retirement incentive plans, staff development  
20 assistance, and transfers from other funds into the general fund for  
21 the second school fiscal year immediately preceding the school fiscal  
22 year in which aid is to be paid as reported on the annual financial  
23 report prior to December 1 of the school fiscal year immediately  
24 preceding the school fiscal year in which aid is to be paid;

25                   (b) For state aid calculated for school fiscal year

1 2008-09, as reported for the second school fiscal year immediately  
2 preceding the school fiscal year in which aid is to be paid on the  
3 annual financial report submitted prior to December 1 of the school  
4 fiscal year immediately preceding the school fiscal year in which aid  
5 is to be paid, the total general fund expenditures minus (i) the  
6 amount of all receipts to the general fund, to the extent that such  
7 receipts are not included in local system formula resources, from  
8 early childhood education tuition, summer school tuition, educational  
9 entities as defined in section 79-1201.01 for providing distance  
10 education courses through the Educational Service Unit Coordinating  
11 Council to such educational entities, private foundations,  
12 individuals, associations, charitable organizations, the textbook  
13 loan program authorized by section 79-734, and federal impact aid,  
14 (ii) the amount of expenditures for categorical funds, tuition paid,  
15 transportation fees paid to other districts, adult education,  
16 community services, redemption of the principal portion of general  
17 fund debt service, retirement incentive plans authorized by section  
18 79-855, and staff development assistance authorized by section  
19 79-856, and (iii) the amount of any transfers from the general fund  
20 to any bond fund and transfers from other funds into the general  
21 fund;

22 (c) For state aid calculated for school fiscal year  
23 2009-10, as reported on the annual financial report for the second  
24 school fiscal year immediately preceding the school fiscal year in  
25 which aid is to be paid, the total general fund expenditures minus

1 (i) the amount of all receipts to the general fund, to the extent  
2 that such receipts are not included in local system formula  
3 resources, from early childhood education tuition, summer school  
4 tuition, educational entities as defined in section 79-1201.01 for  
5 providing distance education courses through the Educational Service  
6 Unit Coordinating Council to such educational entities, private  
7 foundations, individuals, associations, charitable organizations, the  
8 textbook loan program authorized by section 79-734, and federal  
9 impact aid, (ii) the amount of expenditures for categorical funds,  
10 tuition paid, transportation fees paid to other districts, adult  
11 education, community services, redemption of the principal portion of  
12 general fund debt service, retirement incentive plans authorized by  
13 section 79-855, and staff development assistance authorized by  
14 section 79-856, (iii) the amount of any transfers from the general  
15 fund to any bond fund and transfers from other funds into the general  
16 fund, and (iv) any legal expenses in excess of fifteen-hundredths of  
17 one percent of the formula need for the school fiscal year in which  
18 the expenses occurred; and

19 (d) For state aid calculated for school fiscal year  
20 2010-11 and each school fiscal year thereafter, as reported on the  
21 annual financial report for the second school fiscal year immediately  
22 preceding the school fiscal year in which aid is to be paid, the  
23 total general fund expenditures minus (i) the amount of all receipts  
24 to the general fund, to the extent that such receipts are not  
25 included in local system formula resources, from early childhood

1 education tuition, summer school tuition, educational entities as  
2 defined in section 79-1201.01 for providing distance education  
3 courses through the Educational Service Unit Coordinating Council to  
4 such educational entities, private foundations, individuals,  
5 associations, charitable organizations, the textbook loan program  
6 authorized by section 79-734, federal impact aid, and levy override  
7 elections pursuant to section 77-3444, (ii) the amount of  
8 expenditures for categorical funds, tuition paid, transportation fees  
9 paid to other districts, adult education, community services,  
10 redemption of the principal portion of general fund debt service,  
11 retirement incentive plans authorized by section 79-855, and staff  
12 development assistance authorized by section 79-856, (iii) the amount  
13 of any transfers from the general fund to any bond fund and transfers  
14 from other funds into the general fund, (iv) any legal expenses in  
15 excess of fifteen-hundredths of one percent of the formula need for  
16 the school fiscal year in which the expenses occurred, (v)  
17 expenditures to pay for sums agreed to be paid by a school district  
18 to certificated employees in exchange for a voluntary termination  
19 occurring prior to July 1, 2009, and (vi)(A) expenditures in school  
20 fiscal years 2009-10 through 2013-14 to pay for employer  
21 contributions pursuant to subsection (2) of section 79-958 to the  
22 School Retirement System of the State of Nebraska to the extent that  
23 such expenditures exceed the employer contributions under such  
24 subsection that would have been made at a contribution rate of seven  
25 and thirty-five hundredths percent or (B) expenditures in school

1 fiscal years 2009-10 through 2013-14 to pay for school district  
2 contributions pursuant to subdivision (1)(c)(i) of section 79-9,113  
3 to the Class V School Employees Retirement System to the extent that  
4 such expenditures exceed the school district contributions under such  
5 subdivision that would have been made at a contribution rate of seven  
6 and thirty-seven hundredths percent.

7           For purposes of this subdivision (21) of this section,  
8 receipts from levy override elections shall equal ninety-nine percent  
9 of the difference of the total general fund levy minus a levy of one  
10 dollar and five cents per one hundred dollars of taxable valuation  
11 multiplied by the assessed valuation for school districts that have  
12 voted pursuant to section 77-3444 to override the maximum levy  
13 provided pursuant to section 77-3442;

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

16           (23) Income tax liability means the amount of the  
17 reported income tax liability for resident individuals pursuant to  
18 the Nebraska Revenue Act of 1967 less all nonrefundable credits  
19 earned and refunds made;

20           (24) Income tax receipts means the amount of income tax  
21 collected pursuant to the Nebraska Revenue Act of 1967 less all  
22 nonrefundable credits earned and refunds made;

23           (25) Limited English proficiency students means (a) for  
24 school fiscal years prior to school fiscal year 2009-10, the number  
25 of students with limited English proficiency in a district from the

1 most recent data available on November 1 of the school fiscal year  
2 preceding the school fiscal year in which aid is to be paid and (b)  
3 for school fiscal year 2009-10 and each school fiscal year  
4 thereafter, the number of students with limited English proficiency  
5 in a district from the most recent data available on November 1 of  
6 the school fiscal year preceding the school fiscal year in which aid  
7 is to be paid plus the difference of such students with limited  
8 English proficiency minus the average number of limited English  
9 proficiency students for such district, prior to such addition, for  
10 the three immediately preceding school fiscal years if such  
11 difference is greater than zero;

12 (26) Local system means a learning community for purposes  
13 of calculation of state aid for the second full school fiscal year  
14 after becoming a learning community and each school fiscal year  
15 thereafter, a unified system, a Class VI district and the associated  
16 Class I districts, or a Class II, III, IV, or V district and any  
17 affiliated Class I districts or portions of Class I districts. The  
18 membership, expenditures, and resources of Class I districts that are  
19 affiliated with multiple high school districts will be attributed to  
20 local systems based on the percent of the Class I valuation that is  
21 affiliated with each high school district;

22 (27) Low-income child means (a) for school fiscal years  
23 prior to 2008-09, a child under nineteen years of age living in a  
24 household having an annual adjusted gross income of fifteen thousand  
25 dollars or less for the second calendar year preceding the beginning

1 of the school fiscal year for which aid is being calculated and (b)  
2 for school fiscal year 2008-09 and each school fiscal year  
3 thereafter, a child under nineteen years of age living in a household  
4 having an annual adjusted gross income for the second calendar year  
5 preceding the beginning of the school fiscal year for which aid is  
6 being calculated equal to or less than the maximum household income  
7 that would allow a student from a family of four people to be a free  
8 lunch and free milk student during the school fiscal year immediately  
9 preceding the school fiscal year for which aid is being calculated;

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

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

21 (30) Poverty students means (a) for school fiscal years  
22 prior to school fiscal year 2009-10, the number of low-income  
23 students or the number of students who are free lunch and free milk  
24 students in a district, whichever is greater, and (b) for school  
25 fiscal year 2009-10 and each school fiscal year thereafter, the

1 number of low-income students or the number of students who are free  
2 lunch and free milk students in a district plus the difference of the  
3 number of low-income students or the number of students who are free  
4 lunch and free milk students in a district, whichever is greater,  
5 minus the average number of poverty students for such district, prior  
6 to such addition, for the three immediately preceding school fiscal  
7 years if such difference is greater than zero;

8           (31) Qualified early childhood education average daily  
9 membership means the product of the average daily membership for  
10 school fiscal year 2006-07 and each school fiscal year thereafter of  
11 students who will be eligible to attend kindergarten the following  
12 school year and are enrolled in an early childhood education program  
13 approved by the department pursuant to section 79-1103 for such  
14 school district for such school year multiplied by the ratio of the  
15 actual instructional hours of the program divided by one thousand  
16 thirty-two if: (a) The program is receiving a grant pursuant to such  
17 section for the third year; (b) the program has already received  
18 grants pursuant to such section for three years; or (c) the program  
19 has been approved pursuant to subsection (5) of section 79-1103 for  
20 such school year and the two preceding school years, including any  
21 such students in portions of any of such programs receiving an  
22 expansion grant;

23           (32) Qualified early childhood education fall membership  
24 means the product of membership on the last Friday in September 2006  
25 and each year thereafter of students who will be eligible to attend

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

12 (33) Regular route transportation means the  
13 transportation of students on regularly scheduled daily routes to and  
14 from the attendance center;

15 (34) Reorganized district means any district involved in  
16 a consolidation and currently educating students following  
17 consolidation;

18 (35) School year or school fiscal year means the fiscal  
19 year of a school district as defined in section 79-1091;

20 (36) Sparse local system means a local system that is not  
21 a very sparse local system but which meets the following criteria:

22 (a)(i) Less than two students per square mile in the  
23 county in which each high school is located, based on the school  
24 district census, (ii) less than one formula student per square mile  
25 in the local system, and (iii) more than ten miles between each high

1 school attendance center and the next closest high school attendance  
2 center on paved roads;

3 (b)(i) Less than one and one-half formula students per  
4 square mile in the local system and (ii) more than fifteen miles  
5 between each high school attendance center and the next closest high  
6 school attendance center on paved roads;

7 (c)(i) Less than one and one-half formula students per  
8 square mile in the local system and (ii) more than two hundred  
9 seventy-five square miles in the local system; or

10 (d)(i) Less than two formula students per square mile in  
11 the local system and (ii) the local system includes an area equal to  
12 ninety-five percent or more of the square miles in the largest county  
13 in which a high school attendance center is located in the local  
14 system;

15 (37) Special education means specially designed  
16 kindergarten through grade twelve instruction pursuant to section  
17 79-1125, and includes special education transportation;

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

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

4                   (40) State board means the State Board of Education;

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

8                   (42) Statewide average basic funding per formula student  
9 means the statewide total basic funding for all districts divided by  
10 the statewide total formula students for all districts;

11                   (43) Statewide average general fund operating  
12 expenditures per formula student means the statewide total general  
13 fund operating expenditures for all districts divided by the  
14 statewide total formula students for all districts;

15                   (44) Teacher has the definition found in section 79-101;

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

1 multiplied by the average formula cost per student in the local  
2 system's cost grouping;

3 (46) Tuitioned students means students in kindergarten  
4 through grade twelve of the district whose tuition is paid by the  
5 district to some other district or education agency; and

6 (47) Very sparse local system means a local system that  
7 has:

8 (a)(i) Less than one-half student per square mile in each  
9 county in which each high school attendance center is located based  
10 on the school district census, (ii) less than one formula student per  
11 square mile in the local system, and (iii) more than fifteen miles  
12 between the high school attendance center and the next closest high  
13 school attendance center on paved roads; or

14 (b)(i) More than four hundred fifty square miles in the  
15 local system, (ii) less than one-half student per square mile in the  
16 local system, and (iii) more than fifteen miles between each high  
17 school attendance center and the next closest high school attendance  
18 center on paved roads.

19 Sec. 2. Section 79-1007.11, Revised Statutes Cumulative  
20 Supplement, 2010, is amended to read:

21 79-1007.11 (1) Except as otherwise provided in this  
22 section, for school fiscal year 2008-09, each school district's  
23 formula need shall equal the difference of the sum of the school  
24 district's basic funding, poverty allowance, limited English  
25 proficiency allowance, elementary class size allowance, focus school

1 and program allowance, summer school allowance, special receipts  
2 allowance, transportation allowance, elementary site allowance,  
3 distance education and telecommunications allowance, averaging  
4 adjustment, and teacher education adjustment, minus the sum of the  
5 limited English proficiency allowance correction, poverty allowance  
6 correction, and local choice adjustment.

7           (2) Except as otherwise provided in this section, for  
8 school fiscal year 2009-10, each school district's formula need shall  
9 equal the difference of the sum of the school district's basic  
10 funding, poverty allowance, limited English proficiency allowance,  
11 elementary class size allowance, focus school and program allowance,  
12 summer school allowance, special receipts allowance, transportation  
13 allowance, elementary site allowance, instructional time allowance,  
14 distance education and telecommunications allowance, averaging  
15 adjustment, teacher education adjustment, new learning community  
16 transportation adjustment, student growth adjustment, and new school  
17 adjustment, minus the sum of the limited English proficiency  
18 allowance correction, poverty allowance correction, and local choice  
19 adjustment.

20           (3) Except as otherwise provided in this section, for  
21 school fiscal year 2010-11, each school district's formula need shall  
22 equal the difference of the sum of the school district's basic  
23 funding, poverty allowance, limited English proficiency allowance,  
24 elementary class size allowance, focus school and program allowance,  
25 summer school allowance, special receipts allowance, transportation

1 allowance, elementary site allowance, instructional time allowance,  
2 teacher education allowance, distance education and  
3 telecommunications allowance, averaging adjustment, new learning  
4 community transportation adjustment, student growth adjustment, and  
5 new school adjustment, minus the sum of the limited English  
6 proficiency allowance correction, poverty allowance correction, and  
7 local choice adjustment.

8 (4) Except as otherwise provided in this section, for  
9 school fiscal ~~years year~~ 2011-12, ~~and 2012-13~~, each school district's  
10 formula need shall equal the difference of the sum of the school  
11 district's basic funding, poverty allowance, limited English  
12 proficiency allowance, elementary class size allowance, focus school  
13 and program allowance, summer school allowance, special receipts  
14 allowance, transportation allowance, elementary site allowance,  
15 ~~instructional time allowance, teacher education allowance, distance~~  
16 education and telecommunications allowance, averaging adjustment, new  
17 learning community transportation adjustment, ~~student growth~~  
18 ~~adjustment~~, any positive student growth adjustment correction, and  
19 new school adjustment, minus the sum of the limited English  
20 proficiency allowance correction, poverty allowance correction, any  
21 negative student growth adjustment correction, and local choice  
22 adjustment.

23 (5) Except as otherwise provided in this section, for  
24 school fiscal year 2012-13, each school district's formula need shall  
25 equal the difference of the sum of the school district's basic

1 funding, poverty allowance, limited English proficiency allowance,  
2 elementary class size allowance, focus school and program allowance,  
3 summer school allowance, special receipts allowance, transportation  
4 allowance, elementary site allowance, distance education and  
5 telecommunications allowance, averaging adjustment, new learning  
6 community transportation adjustment, and new school adjustment, minus  
7 the sum of the limited English proficiency allowance correction,  
8 poverty allowance correction, and local choice adjustment.

9           ~~(5)-(6)~~ Except as otherwise provided in this section, for  
10 school fiscal year 2013-14 and each school fiscal year thereafter,  
11 each school district's formula need shall equal the difference of the  
12 sum of the school district's basic funding, poverty allowance,  
13 limited English proficiency allowance, focus school and program  
14 allowance, summer school allowance, special receipts allowance,  
15 transportation allowance, elementary site allowance, ~~instructional~~  
16 ~~time allowance, teacher education allowance,~~ distance education and  
17 telecommunications allowance, averaging adjustment, new learning  
18 community transportation adjustment, ~~student growth adjustment, any~~  
19 ~~positive student growth adjustment correction,~~ and new school  
20 adjustment, minus the sum of the limited English proficiency  
21 allowance correction, poverty allowance correction, ~~any negative~~  
22 ~~student growth adjustment correction,~~ and local choice adjustment.

23           ~~(6)-(7)~~ If the formula need calculated for a school  
24 district pursuant to subsections (1) through ~~(5)-(6)~~ of this section  
25 is less than one hundred percent of the formula need for such

1 district for the school fiscal year immediately preceding the school  
2 fiscal year for which aid is being calculated, the formula need for  
3 such district shall equal one hundred percent of the formula need for  
4 such district for the school fiscal year immediately preceding the  
5 school fiscal year for which aid is being calculated.

6 ~~(7)-(8)~~ Except as provided in subsection ~~(9)-(10)~~ of this  
7 section, if the formula need calculated for a school district  
8 pursuant to subsections (1) through ~~(5)-(6)~~ of this section is more  
9 than one hundred twelve percent of the formula need for such district  
10 for the school fiscal year immediately preceding the school fiscal  
11 year for which aid is being calculated, the formula need for such  
12 district shall equal one hundred twelve percent of the formula need  
13 for such district for the school fiscal year immediately preceding  
14 the school fiscal year for which aid is being calculated, except that  
15 the formula need shall not be reduced pursuant to this subsection for  
16 any district (a) receiving a student growth adjustment for the school  
17 fiscal year for which aid is being calculated or (b) for school  
18 fiscal year 2008-09, for which the formula students for the  
19 certification of aid pursuant to section 79-1022 for school fiscal  
20 year 2008-09 minus the formula students for the certification of aid  
21 pursuant to section 79-1022 for school fiscal year 2007-08 equals at  
22 least the greater of twenty-five students or one percent of the  
23 formula students for the certification of aid pursuant to section  
24 79-1022 for school fiscal year 2007-08.

25 ~~(8)-(9)~~ For purposes of subsections ~~(6)-(7)~~ and ~~(7)-(8)~~

1 of this section, the formula need for the school fiscal year  
2 immediately preceding the school fiscal year for which aid is being  
3 calculated shall be the formula need used in the final calculation of  
4 aid pursuant to section 79-1065 and for districts that were affected  
5 by a reorganization with an effective date in the calendar year  
6 preceding the calendar year in which aid is certified for the school  
7 fiscal year for which aid is being calculated, the formula need for  
8 the school fiscal year immediately preceding the school fiscal year  
9 for which aid is being calculated shall be attributed to the affected  
10 school districts based on information provided to the department by  
11 the school districts or proportionally based on the adjusted  
12 valuation transferred if sufficient information has not been provided  
13 to the department.

14 ~~(9)~~(10) For state aid calculated for the first full  
15 school fiscal year of a new learning community, if the formula need  
16 calculated for a member school district pursuant to subsections (1)  
17 through ~~(6)~~(7) of this section is less than the sum of the school  
18 district's state aid certified for the school fiscal year immediately  
19 preceding the first full school fiscal year of the learning community  
20 plus the school district's other actual receipts included in local  
21 system formula resources pursuant to section 79-1018.01 for such  
22 school fiscal year plus the product of the school district's general  
23 fund levy for such school fiscal year up to one dollar and five cents  
24 multiplied by the school district's assessed valuation for such  
25 school fiscal year, the formula need for such school district for the

1 school fiscal year for which aid is being calculated shall equal such  
2 sum.

3 Sec. 3. Section 79-1007.20, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5 79-1007.20 (1) For school fiscal ~~year~~years 2009-10 and  
6 ~~each school fiscal year thereafter, 2010-11,~~ school districts may  
7 apply to the department for a student growth adjustment, on a form  
8 prescribed by the department, on or before October 15 of the school  
9 fiscal year immediately preceding the school fiscal year for which  
10 aid is being calculated. Such form shall require an estimate of the  
11 average daily membership for the school fiscal year for which aid is  
12 being calculated, the estimated student growth calculated by  
13 subtracting the fall membership of the current school fiscal year  
14 from the estimated average daily membership for the school fiscal  
15 year for which aid is being calculated, and evidence supporting the  
16 estimates. On or before the immediately following December 1, the  
17 department shall approve the estimated student growth, approve a  
18 modified student growth, or deny the application based on the  
19 requirements of this section, the evidence submitted on the  
20 application, and any other information provided by the department.  
21 The state board shall establish procedures for appeal of decisions of  
22 the department to the state board for final determination.

23 (2) The student growth adjustment for each approved  
24 district shall equal the sum of the product of the school district's  
25 basic funding per formula student multiplied by the difference of the

1 approved student growth minus the greater of twenty-five students or  
2 one percent of the fall membership for the school fiscal year  
3 immediately preceding the school fiscal year for which aid is being  
4 calculated plus the product of fifty percent of the school district's  
5 basic funding per formula student multiplied by the greater of  
6 twenty-five students or one percent of the fall membership for the  
7 school fiscal year immediately preceding the school fiscal year for  
8 which aid is being calculated.

9 (3) For school fiscal year 2011-12, ~~and each school~~  
10 ~~fiscal year thereafter,~~ the department shall calculate a student  
11 growth adjustment correction for each district that received a  
12 student growth adjustment for aid distributed in the most recently  
13 available complete data year. Such student growth correction shall  
14 equal the product of the difference of the average daily membership  
15 for such school fiscal year minus the sum of the formula students and  
16 the approved student growth used to calculate the student growth  
17 adjustment for such school fiscal year multiplied by the school  
18 district's basic funding per formula student used in the final  
19 calculation of aid pursuant to section 79-1065 for such school fiscal  
20 year, except that the absolute value of a negative correction shall  
21 not exceed the original adjustment.

22 Sec. 4. Section 79-1007.23, Revised Statutes Cumulative  
23 Supplement, 2010, is amended to read:

24 79-1007.23 For state aid calculated for school fiscal  
25 ~~year years~~ 2009-10 and ~~each school fiscal year thereafter:~~ 2010-11:

1           (1) The department shall calculate an instructional time  
2 allowance for each district which submits the information required  
3 for the calculation on a form prescribed by the department on or  
4 before October 15 of the school fiscal year preceding the school  
5 fiscal year for which aid is being calculated. The instructional time  
6 allowance shall be equal to the product of the formula students of  
7 such district multiplied by the instructional time factor for such  
8 district multiplied by eighty-five percent of the statewide average  
9 general fund operating expenditures per formula student;

10           (2) The instructional time factor shall equal the  
11 difference of the ratio of the district's average hours of  
12 instruction for each full-time student during the regular school year  
13 for the most recently available complete data year divided by: (a)  
14 For state aid calculated for school fiscal year 2009-10, the  
15 comparison group average hours of instruction for each full-time  
16 student during the regular school year for the most recently  
17 available complete data year minus one; or (b) for state aid  
18 calculated for school fiscal year 2010-11, ~~and each school fiscal~~  
19 ~~year thereafter,~~ the statewide average hours of instruction for each  
20 full-time student during the regular school year for the most  
21 recently available complete data year minus one, except that if the  
22 result is less than zero, the instructional time factor shall equal  
23 zero; and

24           (3) ~~For school fiscal years 2009-10 and 2010-11, the~~ The  
25 comparison group average hours of instruction for each full-time

1 student shall be an average of the averages for all school districts  
2 in the comparison group. The average hours of instruction shall be  
3 defined by the department and shall not include extracurricular  
4 activities outside of the regular school day or time designated for  
5 students to eat lunch. The statewide average hours of instruction for  
6 each full-time student shall be an average of the averages for all  
7 school districts. ; and

8 ~~(4) For school fiscal year 2011-12 and each school fiscal~~  
9 ~~year thereafter, the average hours of instruction shall be defined by~~  
10 ~~the department and shall be based on scheduled time for courses and~~  
11 ~~the number of students participating in such courses as reported to~~  
12 ~~the department for the most recently available complete data year.~~  
13 ~~Hours of instruction shall not include extracurricular activities~~  
14 ~~outside of the regular school day or time designated for students to~~  
15 ~~eat lunch. The statewide average hours of instruction for each~~  
16 ~~student shall be an average of the averages for all school districts.~~

17 Sec. 5. Section 79-1007.25, Revised Statutes Cumulative  
18 Supplement, 2010, is amended to read:

19 79-1007.25 For school fiscal year 2010-11, and each  
20 school fiscal year thereafter, the department shall calculate a  
21 teacher education allowance for each district as follows:

22 (1) Teacher education points shall be calculated for each  
23 district by the department based upon data from the fall personnel  
24 report required pursuant to section 79-804 for the school fiscal year  
25 immediately preceding the school fiscal year in which aid is to be

1 paid. Each full-time equivalent teacher shall (a) be under contract  
2 with a school district as required pursuant to section 79-818 and (b)  
3 only be counted one time in awarding any points pursuant to this  
4 section. Each district shall receive one point for each full-time  
5 equivalent teacher who has earned and been awarded a master's degree  
6 or an education specialist's degree and two points for each full-time  
7 equivalent teacher who has earned and been awarded a doctoral degree;

8           (2) A teacher education index shall be calculated for  
9 each district by dividing the ratio of teacher education points for  
10 the district divided by the number of full-time equivalent teachers  
11 in the district by the ratio of teacher education points for all  
12 districts divided by the number of full-time equivalent teachers in  
13 all districts; and

14           (3) The teacher education allowance for each district  
15 shall equal eight and one-half percent of the statewide average  
16 general fund operating expenditures per formula student multiplied by  
17 the district's formula students and multiplied by the difference of  
18 the product of the district's teacher education index minus one,  
19 except that if the result is less than zero, the teacher education  
20 allowance shall equal zero.

21           Sec. 6. Original sections 79-1003, 79-1007.11,  
22 79-1007.20, 79-1007.23, and 79-1007.25, Revised Statutes Cumulative  
23 Supplement, 2010, are repealed.

24           Sec. 7. Since an emergency exists, this act takes effect  
25 when passed and approved according to law.