

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 161

Introduced by Juarez, 5.

Read first time January 13, 2025

Committee: Education

1 A BILL FOR AN ACT relating to the Tax Equity and Educational
2 Opportunities Support Act; to amend section 79-1003, Reissue Revised
3 Statutes of Nebraska; to redefine a term; and to repeal the original
4 section.

5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 79-1003, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

5 (1) Adjusted general fund operating expenditures means the
6 difference of the general fund operating expenditures increased by the
7 cost growth factor calculated pursuant to section 79-1007.10, minus the
8 transportation allowance, special receipts allowance, poverty allowance,
9 limited English proficiency allowance, distance education and
10 telecommunications allowance, elementary site allowance, summer school
11 allowance, community achievement plan allowance, and focus school and
12 program allowance;

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

23 (3) Allocated income tax funds means the amount of assistance paid
24 to a local system pursuant to section 79-1005.01;

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

30 (5) Base fiscal year means the first school fiscal year following
31 the school fiscal year in which the reorganization or unification

1 occurred;

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

3 (7) Categorical funds means funds limited to a specific purpose by
4 federal or state law, including, but not limited to, Title I funds, Title
5 VI funds, federal career and technical education funds, federal school
6 lunch funds, Indian education funds, Head Start funds, and funds received
7 prior to July 1, 2022, from the Nebraska Education Improvement Fund;

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

11 (9) Converted contract means an expired contract that was in effect
12 for at least fifteen school years beginning prior to school year 2012-13
13 for the education of students in a nonresident district in exchange for
14 tuition from the resident district when the expiration of such contract
15 results in the nonresident district educating students, who would have
16 been covered by the contract if the contract were still in effect, as
17 option students pursuant to the enrollment option program established in
18 section 79-234;

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

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

26 (12) District means any school district or unified system as defined
27 in section 79-4,108;

28 (13) Ensuing school fiscal year means the school fiscal year
29 following the current school fiscal year;

30 (14) Equalization aid means the amount of assistance calculated to
31 be paid to a local system pursuant to section 79-1008.01;

1 (15) Fall membership means the total membership in kindergarten
2 through grade twelve attributable to the local system as reported on the
3 fall school district membership reports for each district pursuant to
4 section 79-528;

5 (16) Fiscal year means the state fiscal year which is the period
6 from July 1 to the following June 30;

7 (17) Formula students means:

8 (a) For state aid certified pursuant to section 79-1022, the sum of
9 the product of fall membership from the school fiscal year immediately
10 preceding the school fiscal year in which the aid is to be paid
11 multiplied by the average ratio of average daily membership to fall
12 membership for the second school fiscal year immediately preceding the
13 school fiscal year in which the aid is to be paid and the prior two
14 school fiscal years plus one hundred sixty percent of the qualified early
15 childhood education fall membership plus tuitioned students from the
16 school fiscal year immediately preceding the school fiscal year in which
17 aid is to be paid minus the product of the number of students enrolled in
18 kindergarten that is not full-day kindergarten from the fall membership
19 multiplied by 0.5; and

20 (b) For the final calculation of state aid pursuant to section
21 79-1065, the sum of average daily membership plus one hundred sixty
22 percent of the qualified early childhood education average daily
23 membership plus tuitioned students minus the product of the number of
24 students enrolled in kindergarten that is not full-day kindergarten from
25 the average daily membership multiplied by 0.5 from the school fiscal
26 year immediately preceding the school fiscal year in which aid was paid;

27 (18) Free lunch and free milk calculated students means, using the
28 most recent data available on November 1 of the school fiscal year
29 immediately preceding the school fiscal year in which aid is to be paid,

30 (a) for schools that did not provide free meals to all students pursuant
31 to the community eligibility provision, students who individually

1 qualified for free lunches or free milk pursuant to the federal Richard
2 B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the
3 federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts
4 and sections existed on January 1, 2021, and rules and regulations
5 adopted thereunder, plus (b) for schools that provided free meals to all
6 students pursuant to the community eligibility provision, the greater of
7 the number of students in such school who individually qualified for free
8 lunch or free milk using the most recent school fiscal year for which the
9 school did not provide free meals to all students pursuant to the
10 community eligibility provision or one hundred ten percent of the product
11 of the students who qualified for free meals at such school pursuant to
12 the community eligibility provision multiplied by the identified student
13 percentage calculated pursuant to such federal provision, except that the
14 free lunch and free milk calculated students for any school pursuant to
15 subdivision (18)(b) of this section shall not exceed one hundred percent
16 of the students qualified for free meals at such school pursuant to the
17 community eligibility provision;

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

20 (20) General fund budget of expenditures means the total budget of
21 disbursements and transfers for general fund purposes as certified in the
22 budget statement adopted pursuant to the Nebraska Budget Act, except that
23 for purposes of the limitation imposed in section 79-1023, the general
24 fund budget of expenditures does not include any special grant funds,
25 exclusive of local matching funds, received by a district;

26 (21) General fund expenditures means all expenditures from the
27 general fund;

28 (22) General fund operating expenditures means, for state aid
29 calculated for each school fiscal year, as reported on the annual
30 financial report for the second school fiscal year immediately preceding
31 the school fiscal year in which aid is to be paid, the total general fund

1 expenditures minus (a) the amount of all receipts to the general fund, to
2 the extent that such receipts are not included in local system formula
3 resources, from early childhood education tuition, summer school tuition,
4 educational entities as defined in section 79-1201.01 for providing
5 distance education courses through the Educational Service Unit
6 Coordinating Council to such educational entities, private foundations,
7 individuals, associations, charitable organizations, the textbook loan
8 program authorized by section 79-734, federal impact aid, and levy
9 override elections pursuant to section 77-3444, (b) the amount of
10 expenditures for categorical funds, tuition paid to other school
11 districts, tuition paid to postsecondary institutions for college credit,
12 transportation fees paid to other districts, adult education, community
13 services, redemption of the principal portion of general fund debt
14 service, retirement incentive plans authorized by section 79-855, and
15 staff development assistance authorized by section 79-856, (c) the amount
16 of any transfers from the general fund to any bond fund and transfers
17 from other funds into the general fund, (d) any legal expenses in excess
18 of fifteen-hundredths of one percent of the formula need for the school
19 fiscal year in which the expenses occurred, (e) expenditures to pay for
20 incentives agreed to be paid by a school district to certificated
21 employees in exchange for a voluntary termination of employment for which
22 the State Board of Education approved an exclusion pursuant to
23 subdivision (1)(h), (i), (j), or (k) of section 79-1028.01, (f)(i)
24 expenditures to pay for employer contributions pursuant to subsection (2)
25 of section 79-958 to the School Employees Retirement System of the State
26 of Nebraska to the extent that such expenditures exceed the employer
27 contributions under such subsection that would have been made at a
28 contribution rate of seven and thirty-five hundredths percent or (ii)
29 expenditures to pay for school district contributions pursuant to
30 subdivision (1)(c)(i) or (1)(d)(i) of section 79-9,113 to the retirement
31 system established pursuant to the Class V School Employees Retirement

1 Act to the extent that such expenditures exceed the school district
2 contributions under such subdivision that would have been made at a
3 contribution rate of seven and thirty-seven hundredths percent, and (g)
4 any amounts paid by the district for lobbyist fees and expenses reported
5 to the Clerk of the Legislature pursuant to section 49-1483.

6 For purposes of this subdivision (22) of this section, receipts from
7 levy override elections shall equal ninety-nine percent of the difference
8 of the total general fund levy minus a levy of one dollar and five cents
9 per one hundred dollars of taxable valuation multiplied by the assessed
10 valuation for school districts that have voted pursuant to section
11 77-3444 to override the maximum levy provided pursuant to section
12 77-3442;

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

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

19 (25) Limited English proficiency students means the number of
20 students with limited English proficiency in a district from the most
21 recent data available on November 1 of the school fiscal year preceding
22 the school fiscal year in which aid is to be paid plus the difference of
23 such students with limited English proficiency minus the average number
24 of limited English proficiency students for such district, prior to such
25 addition, for the three immediately preceding school fiscal years if such
26 difference is greater than zero;

27 (26) Local system means a unified system or a school district;

28 (27) Low-income child means a child under nineteen years of age
29 living in a household having an annual adjusted gross income for the
30 second calendar year preceding the beginning of the school fiscal year
31 for which aid is being calculated equal to or less than the maximum

1 household income pursuant to sections 9(b)(1) and 17(c)(4) of the Richard
2 B. Russell National School Lunch Act, 42 U.S.C. 1758(b)(1) and 42 U.S.C.
3 1766(c)(4), respectively, and sections 3(a)(6) and 4(e)(1)(A) of the
4 Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6) and 42 U.S.C. 1773(e)
5 (1)(A), respectively, as such acts and sections existed on January 1,
6 2021, for a household of that size that would have allowed the child to
7 meet the income qualifications for free meals during the school fiscal
8 year immediately preceding the school fiscal year for which aid is being
9 calculated;

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

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

20 (30) Poverty students means the unadjusted poverty students plus the
21 difference of such unadjusted poverty students minus the average number
22 of poverty students for such district, prior to such addition, for the
23 three immediately preceding school fiscal years if such difference is
24 greater than zero;

25 (31) Qualified early childhood education average daily membership
26 means the product of the average daily membership of students who will be
27 eligible or required to attend kindergarten the following school year and
28 are enrolled in an early childhood education program approved by the
29 department pursuant to section 79-1103 for such school district for such
30 school year multiplied by the ratio of the actual instructional hours of
31 the program divided by one thousand thirty-two if: (a) The program is

1 receiving a grant pursuant to such section for the third year; (b) the
2 program has already received grants pursuant to such section for three
3 years; or (c) the program has been approved pursuant to subsection (5) of
4 section 79-1103 for such school year and the two preceding school years,
5 including any such students in portions of any of such programs receiving
6 an expansion grant;

7 (32) Qualified early childhood education fall membership means the
8 product of membership on October 1 of each school year of students who
9 will be eligible or required to attend kindergarten the following school
10 year and are enrolled in an early childhood education program approved by
11 the department pursuant to section 79-1103 for such school district for
12 such school year multiplied by the ratio of the planned instructional
13 hours of the program divided by one thousand thirty-two if: (a) The
14 program is receiving a grant pursuant to such section for the third year;
15 (b) the program has already received grants pursuant to such section for
16 three years; or (c) the program has been approved pursuant to subsection
17 (5) of section 79-1103 for such school year and the two preceding school
18 years, including any such students in portions of any of such programs
19 receiving an expansion grant;

20 (33) Regular route transportation means the transportation of
21 students on regularly scheduled daily routes to and from the schools such
22 students attend;

23 (34) Reorganized district means any district involved in a
24 consolidation and currently educating students following consolidation;

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

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

29 (a)(i) Less than two students per square mile in the county in which
30 each high school is located, based on the school district census, (ii)
31 less than one formula student per square mile in the local system, and

1 (iii) more than ten miles between each high school and the next closest
2 high school on paved roads;

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

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

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

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

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

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

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

26 (41) State support means all funds provided to districts by the
27 State of Nebraska for the general fund support of elementary and
28 secondary education;

29 (42) Statewide average basic funding per formula student means the
30 statewide total basic funding for all districts divided by the statewide
31 total formula students for all districts;

1 (43) Statewide average general fund operating expenditures per
2 formula student means the statewide total general fund operating
3 expenditures for all districts divided by the statewide total formula
4 students for all districts;

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

6 (45) Tuition receipts from converted contracts means tuition
7 receipts received by a district from another district in the most
8 recently available complete data year pursuant to a converted contract
9 prior to the expiration of the contract;

10 (46) Tuitioned students means students in kindergarten through grade
11 twelve of the district whose tuition is paid by the district to some
12 other district or education agency;

13 (47) Unadjusted poverty students means the greater of the number of
14 low-income students or the free lunch and free milk calculated students
15 in a district; and

16 (48) Very sparse local system means a local system that has:

17 (a)(i) Less than one-half student per square mile in each county in
18 which each high school is located based on the school district census,
19 (ii) less than one formula student per square mile in the local system,
20 and (iii) more than fifteen miles between the high school and the next
21 closest high school on paved roads; or

22 (b)(i) More than four hundred fifty square miles in the local
23 system, (ii) less than one-half student per square mile in the local
24 system, and (iii) more than fifteen miles between each high school and
25 the next closest high school on paved roads.

26 **Sec. 2.** Original section 79-1003, Reissue Revised Statutes of
27 Nebraska, is repealed.