

LEGISLATIVE BILL 61

Approved by the Governor January 29, 2009

Introduced by Adams, 24.

FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1022, 79-1023, 79-1026.01, 79-1027, and 79-1031.01, Reissue Revised Statutes of Nebraska; to change certification dates as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 79-1022, Reissue Revised Statutes of Nebraska, is amended to read:

79-1022 (1) On or before April 1, 2009, and on or before February 1 of each year thereafter, the department shall determine the amounts to be distributed to each local system and each district pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, each learning community, and each district. The amount to be distributed to each district that is not a member of a learning community from the amount certified for a local system shall be proportional based on: (a) For school fiscal years prior to school fiscal year 2008-09, the weighted formula students attributed to each district in the local system; and (b) for school fiscal year 2008-09 and each school fiscal year thereafter, the formula students attributed to each district in the local system. For the first five complete school fiscal years for a learning community, the amount to be distributed to each district that is a member of such learning community shall be determined pursuant to section 79-1015. For each school fiscal year thereafter, the amount to be distributed to each district that is a member of a learning community from the amount certified for the local system shall be proportional based on the formula needs calculated for each district in the local system. On or before ~~February 1 of each year,~~ April 1, 2009, and February 1 of each year thereafter, the department shall report the necessary funding level to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. Certified state aid amounts, including adjustments pursuant to section 79-1065.02, shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in subsection (8) of section 79-1016 and sections 79-1033 and 79-1065.02, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a school district is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year.

Sec. 2. Section 79-1023, Reissue Revised Statutes of Nebraska, is amended to read:

79-1023 (1) On or before ~~April 30, 2008, or the fifteenth day after April 3, 2008, whichever occurs later,~~ April 1, 2009, and on or before February 1 of each year thereafter, the department shall determine and certify to each school district the maximum general fund budget of expenditures minus the special education budget of expenditures for the immediately following school fiscal year.

(2) For school fiscal years prior to 2008-09, no Class II, III, IV, V, or VI district shall increase its general fund budget of expenditures more than the local system's applicable allowable growth rate.

(3) For school fiscal year 2008-09 and each school fiscal year thereafter, except as provided in section 79-1028.01, no school district shall have a general fund budget of expenditures minus special grant funds and the special education budget of expenditures more than the greater of (a) the product of the difference of the general fund budget of expenditures minus special grant funds and the special education budget of expenditures for the immediately preceding school fiscal year multiplied by the sum of one plus the local system's applicable allowable growth rate or (b) the difference of one hundred twenty percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for

the immediately preceding school fiscal year.

Sec. 3. Section 79-1026.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1026.01 For school fiscal year 2008-09 and each school fiscal year thereafter, on or before April 1, 2009, and on or before February 1 of each year thereafter, the department shall determine and certify to each Class II, III, IV, or V district an applicable allowable growth rate carried out at least four decimal places as follows:

(1) The department shall establish a target budget level range of general fund operating expenditure levels for each school fiscal year for each school district which shall begin at twenty percent less than the school district's formula need and end at the school district's formula need. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section 79-1025, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in such section such that the lower end of the range shall be assigned the maximum allowable growth rate and the higher end of the range shall be assigned the basic allowable growth rate; and

(2) For each school fiscal year, each school district's general fund operating expenditures shall be compared to its target budget level along the range described in subdivision (1) of this section to arrive at an applicable allowable growth rate as follows: If each school district's general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section 79-1025. If each school district's general fund operating expenditures are greater than the higher end of the range, the school district's allowable growth rate shall be the basic allowable growth rate identified in such section. If each school district's general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear interpolation calculation between the end points of the range to arrive at the applicable allowable growth rate for the school district.

Sec. 4. Section 79-1027, Reissue Revised Statutes of Nebraska, is amended to read:

79-1027 No district shall adopt a budget, which includes total requirements of depreciation funds, necessary employee benefit fund cash reserves, and necessary general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

On or before ~~February 15, 2007~~, April 1, 2009, and on or before February 1 each year thereafter, the department shall determine and certify each district's applicable allowable reserve percentage.

Each district with combined necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable growth rate, increase its necessary general fund cash reserves such that the total necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves do not exceed such applicable allowable reserve percentage.

Sec. 5. Section 79-1031.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1031.01 The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid that will be certified to school districts on or before ~~April 30, 2008~~, April 1, 2009, and on or before February 1 for each school year thereafter in its recommendations to the Legislature to carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

Sec. 6. Original sections 79-1022, 79-1023, 79-1026.01, 79-1027, and 79-1031.01, Reissue Revised Statutes of Nebraska, are repealed.

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