

AMENDMENTS TO LB583

(Amendments to Standing Committee amendments, AM970)

Introduced by Brandt, 32.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 79-1001, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 79-1001 Sections 79-1001 to 79-1033 and section 8 of this act shall
6 be known and may be cited as the Tax Equity and Educational Opportunities
7 Support Act.

8 Sec. 2. Section 79-1016, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 79-1016 (1) On or before August 20, the county assessor shall
11 certify to the Property Tax Administrator the total taxable value by
12 school district in the county for the current assessment year on forms
13 prescribed by the Tax Commissioner. The county assessor may amend the
14 filing for changes made to the taxable valuation of the school district
15 in the county if corrections or errors on the original certification are
16 discovered. Amendments shall be certified to the Property Tax
17 Administrator on or before August 31.

18 (2) On or before October 10, the Property Tax Administrator shall
19 compute and certify to the State Department of Education the adjusted
20 valuation for the current assessment year for each class of property in
21 each school district and each local system. The adjusted valuation of
22 property for each school district and each local system, for purposes of
23 determining state aid pursuant to the Tax Equity and Educational
24 Opportunities Support Act, shall reflect as nearly as possible state aid
25 value as defined in subsection (3) of this section. The Property Tax
26 Administrator shall notify each school district and each local system of

1 its adjusted valuation for the current assessment year by class of
2 property on or before October 10. Establishment of the adjusted valuation
3 shall be based on the taxable value certified by the county assessor for
4 each school district in the county adjusted by the determination of the
5 level of value for each school district from an analysis of the
6 comprehensive assessment ratio study or other studies developed by the
7 Property Tax Administrator, in compliance with professionally accepted
8 mass appraisal techniques, as required by section 77-1327. The Tax
9 Commissioner shall adopt and promulgate rules and regulations setting
10 forth standards for the determination of level of value for state aid
11 purposes.

12 (3) For purposes of this section, state aid value means:

13 (a) For real property other than agricultural and horticultural
14 land, eighty-six ~~ninety-six~~ percent of actual value;

15 (b) For agricultural and horticultural land, forty-two ~~seventy-two~~
16 percent of actual value as provided in sections 77-1359 and ~~to~~ 77-1363.
17 For agricultural and horticultural land that receives special valuation
18 pursuant to section 77-1344, forty-two ~~seventy-two~~ percent of special
19 valuation as defined in section 77-1343; and

20 (c) For personal property, the net book value as defined in section
21 77-120.

22 (4) On or before November 10, any local system may file with the Tax
23 Commissioner written objections to the adjusted valuations prepared by
24 the Property Tax Administrator, stating the reasons why such adjusted
25 valuations are not the valuations required by subsection (3) of this
26 section. The Tax Commissioner shall fix a time for a hearing. Either
27 party shall be permitted to introduce any evidence in reference thereto.
28 On or before January 1, the Tax Commissioner shall enter a written order
29 modifying or declining to modify, in whole or in part, the adjusted
30 valuations and shall certify the order to the State Department of
31 Education. Modification by the Tax Commissioner shall be based upon the

1 evidence introduced at hearing and shall not be limited to the
2 modification requested in the written objections or at hearing. A copy of
3 the written order shall be mailed to the local system within seven days
4 after the date of the order. The written order of the Tax Commissioner
5 may be appealed within thirty days after the date of the order to the Tax
6 Equalization and Review Commission in accordance with section 77-5013.

7 (5) On or before November 10, any local system or county official
8 may file with the Tax Commissioner a written request for a nonappealable
9 correction of the adjusted valuation due to clerical error as defined in
10 section 77-128 or, for agricultural and horticultural land, assessed
11 value changes by reason of land qualified or disqualified for special use
12 valuation pursuant to sections 77-1343 to 77-1347.01. On or before the
13 following January 1, the Tax Commissioner shall approve or deny the
14 request and, if approved, certify the corrected adjusted valuations
15 resulting from such action to the State Department of Education.

16 (6) On or before May 31 of the year following the certification of
17 adjusted valuation pursuant to subsection (2) of this section, any local
18 system or county official may file with the Tax Commissioner a written
19 request for a nonappealable correction of the adjusted valuation due to
20 changes to the tax list that change the assessed value of taxable
21 property. Upon the filing of the written request, the Tax Commissioner
22 shall require the county assessor to recertify the taxable valuation by
23 school district in the county on forms prescribed by the Tax
24 Commissioner. The recertified valuation shall be the valuation that was
25 certified on the tax list, pursuant to section 77-1613, increased or
26 decreased by changes to the tax list that change the assessed value of
27 taxable property in the school district in the county in the prior
28 assessment year. On or before the following July 31, the Tax Commissioner
29 shall approve or deny the request and, if approved, certify the corrected
30 adjusted valuations resulting from such action to the State Department of
31 Education.

1 (7) No injunction shall be granted restraining the distribution of
2 state aid based upon the adjusted valuations pursuant to this section.

3 (8) A school district whose state aid is to be calculated pursuant
4 to subsection (5) of this section and whose state aid payment is
5 postponed as a result of failure to calculate state aid pursuant to such
6 subsection may apply to the state board for lump-sum payment of such
7 postponed state aid. Such application may be for any amount up to one
8 hundred percent of the postponed state aid. The state board may grant the
9 entire amount applied for or any portion of such amount. The state board
10 shall notify the Director of Administrative Services of the amount of
11 funds to be paid in a lump sum and the reduced amount of the monthly
12 payments. The Director of Administrative Services shall, at the time of
13 the next state aid payment made pursuant to section 79-1022, draw a
14 warrant for the lump-sum amount from appropriated funds and forward such
15 warrant to the district.

16 Sec. 3. Section 79-1022, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 79-1022 (1)(a) ~~(1)~~ On or before May 1, 2023 ~~2020~~, and on or before
19 March 1 of each year thereafter, the department shall determine the
20 amounts to be distributed to each local system for the ensuing school
21 fiscal year pursuant to the Tax Equity and Educational Opportunities
22 Support Act and shall certify the amounts to the Director of
23 Administrative Services, the Auditor of Public Accounts, and each local
24 system. On or before May 1, 2023 ~~2020~~, and on or before March 1 of each
25 year thereafter, the department shall report the necessary funding level
26 for the ensuing school fiscal year to the Governor, the Appropriations
27 Committee of the Legislature, and the Education Committee of the
28 Legislature. The report submitted to the committees of the Legislature
29 shall be submitted electronically. Except as otherwise provided in this
30 subsection, certified state aid amounts, including adjustments pursuant
31 to section 79-1065.02, shall be shown as budgeted non-property-tax

1 receipts and deducted prior to calculating the property tax request in
2 the local system's general fund budget statement as provided to the
3 Auditor of Public Accounts pursuant to section 79-1024.

4 (b) For school fiscal year 2023-24 and each school fiscal year
5 thereafter, notwithstanding any other provision of the Tax Equity and
6 Educational Opportunities Support Act to the contrary, the amount to be
7 distributed to each local system under the act and certified pursuant to
8 this section shall at least be equal to whichever of the following two
9 numbers is greater: (i) Ten percent of basic funding or (ii) one thousand
10 five hundred dollars per formula student. If the amount to be distributed
11 and certified pursuant to this section is less than such amount, it shall
12 be increased to equal such amount.

13 (2) Except as provided in this subsection, subsection (8) of section
14 79-1016, and sections 79-1005, 79-1033, and 79-1065.02, the amounts
15 certified pursuant to subsection (1) of this section shall be distributed
16 in ten as nearly as possible equal payments on the last business day of
17 each month beginning in September of each ensuing school fiscal year and
18 ending in June of the following year, except that when a local system is
19 to receive a monthly payment of less than one thousand dollars, such
20 payment shall be one lump-sum payment on the last business day of
21 December during the ensuing school fiscal year.

22 Sec. 4. Section 79-1022.02, Revised Statutes Cumulative Supplement,
23 2022, is amended to read:

24 79-1022.02 Notwithstanding any other provision of law, any
25 certification of state aid pursuant to section 79-1022, certification of
26 budget authority pursuant to section 79-1023, and certification of
27 applicable allowable reserve percentages pursuant to section 79-1027
28 completed prior to the effective date of this act February 13, 2020, for
29 school fiscal year 2023-24 ~~2020-21~~ are null and void.

30 Sec. 5. Section 79-1023, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 79-1023 (1) On or before May 1, 2023 ~~2020~~, and on or before March 1
2 of each year thereafter, the department shall determine and certify to
3 each school district budget authority for the general fund budget of
4 expenditures for the ensuing school fiscal year.

5 (2) Except as provided in sections 79-1028.01, 79-1029, 79-1030, and
6 81-829.51, each school district shall have budget authority for the
7 general fund budget of expenditures equal to the greater of (a) the
8 general fund budget of expenditures for the immediately preceding school
9 fiscal year minus exclusions pursuant to subsection (1) of section
10 79-1028.01 for such school fiscal year with the difference increased by
11 the basic allowable growth rate for the school fiscal year for which
12 budget authority is being calculated, (b) the general fund budget of
13 expenditures for the immediately preceding school fiscal year minus
14 exclusions pursuant to subsection (1) of section 79-1028.01 for such
15 school fiscal year with the difference increased by an amount equal to
16 any student growth adjustment calculated for the school fiscal year for
17 which budget authority is being calculated, or (c) one hundred ten
18 percent of formula need for the school fiscal year for which budget
19 authority is being calculated minus the special education budget of
20 expenditures as filed on the school district budget statement on or
21 before September 30 for the immediately preceding school fiscal year,
22 which special education budget of expenditures is increased by the basic
23 allowable growth rate for the school fiscal year for which budget
24 authority is being calculated.

25 (3) For any school fiscal year for which the budget authority for
26 the general fund budget of expenditures for a school district is based on
27 a student growth adjustment, the budget authority for the general fund
28 budget of expenditures for such school district shall be adjusted in
29 future years to reflect any student growth adjustment corrections related
30 to such student growth adjustment.

31 Sec. 6. Section 79-1027, Revised Statutes Cumulative Supplement,

1 2022, is amended to read:

2 79-1027 No district shall adopt a budget, which includes total
3 requirements of depreciation funds, necessary employee benefit fund cash
4 reserves, and necessary general fund cash reserves, exceeding the
5 applicable allowable reserve percentages of total general fund budget of
6 expenditures as specified in the schedule set forth in this section.

7	Average daily	Allowable
8	membership of	reserve
9	district	percentage
10	0 - 471	45
11	471.01 - 3,044	35
12	3,044.01 - 10,000	25
13	10,000.01 and over	20

14 On or before May 1, 2023 ~~2020~~, and on or before March 1 each year
15 thereafter, the department shall determine and certify each district's
16 applicable allowable reserve percentage for the ensuing school fiscal
17 year.

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

26 Sec. 7. Section 79-1031.01, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 79-1031.01 The Appropriations Committee of the Legislature shall
29 annually include the amount necessary to fund the state aid that will be
30 certified to school districts on or before May 1, 2023 ~~2020~~, and on or

1 before March 1 of each year thereafter for each ensuing school fiscal
2 year in its recommendations to the Legislature to carry out the
3 requirements of the Tax Equity and Educational Opportunities Support Act.

4 Sec. 8. (1) The Tax Equity and Educational Opportunities Support
5 Act Trust Fund is created.

6 (2) Every year beginning in 2023, the Department of Revenue shall
7 certify to the State Treasurer the amount of credits that remain
8 unclaimed under the Nebraska Property Tax Incentive Act for the tax year
9 completed four years prior. The State Treasurer shall transfer such
10 amount from the General Fund to the Tax Equity and Educational
11 Opportunities Support Act Trust Fund, and all such money shall be held in
12 trust solely for the purposes described in this section.

13 (3) The State Treasurer shall disburse money from the Tax Equity and
14 Educational Opportunities Support Act Trust Fund to the State Department
15 of Education monthly as appropriated by the Legislature to provide state
16 aid pursuant to subdivision (1)(b) of section 79-1022. Any excess money
17 in the fund shall be reserved for future payments of state aid pursuant
18 to subdivision (1)(b) of section 79-1022.

19 (4) Any money in the Tax Equity and Educational Opportunities
20 Support Act Trust Fund available for investment shall be invested by the
21 state investment officer pursuant to the Nebraska Capital Expansion Act
22 and the Nebraska State Funds Investment Act, and the earnings, if any,
23 shall be credited to the fund.

24 Sec. 9. Section 79-1142, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 79-1142 (1) Level I services refers to services provided to children
27 with disabilities who require an aggregate of not more than three hours
28 per week of special education services and support services and includes
29 all administrative, diagnostic, consultative, and vocational-adjustment
30 counselor services.

31 (2) The total allowable reimbursable cost for support services shall

1 not exceed a percentage, established by the State Board of Education, of
2 the school district's or approved cooperative's total allowable
3 reimbursable cost for all special education programs and support
4 services. The percentage established by the board for support services
5 shall not exceed the difference of ten percent minus the percentage of
6 the appropriations for special education approved by the Legislature set
7 aside for reimbursements for support services pursuant to subsection (5)
8 of this section.

9 (3)(a) (3) For special education and support services provided in
10 each school fiscal year prior to school fiscal year 2023-24, the
11 department shall reimburse each school district in the following school
12 fiscal year a pro rata amount determined by the department. The
13 reimbursement percentage shall be the ratio of the difference of the
14 appropriations for special education approved by the Legislature minus
15 the amounts set aside pursuant to subsection (5) of this section divided
16 by the total allowable excess costs for all special education programs
17 and support services.

18 (b) For special education and support services provided in school
19 fiscal year 2023-24 and each school fiscal year thereafter, the State
20 Department of Education shall reimburse each school district in the
21 following school fiscal year at least eighty percent of the total
22 allowable excess costs for all special education programs and support
23 services provided by such school district. If the appropriation for
24 special education approved by the Legislature exceeds, after subtracting
25 amounts set aside pursuant to subsection (5) of this section, an amount
26 equal to eighty percent of the aggregate total allowable excess costs for
27 all special education programs and support services provided by school
28 districts, the reimbursement percentage shall be the ratio of the
29 difference of the appropriation for special education approved by the
30 Legislature minus the amounts set aside pursuant to subsection (5) of
31 this section divided by the aggregate total allowable excess costs for

1 all special education programs and support services provided by school
2 districts.

3 (4) Cooperatives of school districts or educational service units
4 shall also be eligible for reimbursement for cooperative programs
5 pursuant to this section if such cooperatives or educational service
6 units have complied with the reporting and approval requirements of
7 section 79-1155 for cooperative programs which were offered in the
8 preceding school fiscal year. The payments shall be made by the
9 department to the school district of residence, cooperative of school
10 districts, or educational service unit each school fiscal year in a
11 minimum of seven payments between the fifth and twentieth day of each
12 month beginning in December. Additional payments may be made based upon
13 additional valid claims submitted. The State Treasurer shall, between the
14 fifth and twentieth day of each month, notify the Director of
15 Administrative Services of the amount of funds available in the General
16 Fund for payment purposes. The director shall, upon receiving such
17 certification, draw warrants against funds appropriated.

18 (5) Residential settings described in subdivision (10)(c) of section
19 79-215 shall be reimbursed for the educational services, including
20 special education services and support services in an amount determined
21 pursuant to the average per pupil cost of the service agency.
22 Reimbursements pursuant to this section shall be made from funds set
23 aside for such purpose within sixty days after receipt of a reimbursement
24 request submitted in the manner required by the department and including
25 any documentation required by the department for educational services
26 that have been provided, except that if there are not any funds available
27 for the remainder of the state fiscal year for such reimbursements, the
28 reimbursement shall occur within thirty days after the beginning of the
29 immediately following state fiscal year. The department may audit any
30 required documentation and subtract any payments made in error from
31 future reimbursements. The department shall set aside separate amounts

1 from the appropriations for special education approved by the Legislature
2 for reimbursements pursuant to this subsection for students receiving
3 special education services and for students receiving support services
4 for each state fiscal year. The amounts set aside for each purpose shall
5 be based on estimates of the reimbursements to be requested during the
6 state fiscal year and shall not be less than the total amount of
7 reimbursements requested in the prior state fiscal year plus any unpaid
8 requests from the prior state fiscal year.

9 Sec. 10. Section 79-1145, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 79-1145 (1) For each fiscal year prior to fiscal year 2023-24, the
12 aggregate amount of General Funds appropriated for special education
13 programs and support services pursuant to sections 79-1129, 79-1132, and
14 79-1144 shall not exceed the aggregate amount of General Funds
15 appropriated pursuant to such sections for the previous fiscal year,
16 increased by ten percent.

17 (2) For fiscal year 2023-24 and each fiscal year thereafter, the
18 aggregate amount of General Funds appropriated for special education
19 programs and support services pursuant to sections 79-1129, 79-1132, and
20 79-1144 shall equal the amount necessary to fund the reimbursements
21 required pursuant to section 79-1142.

22 Sec. 11. Original sections 79-1001, 79-1016, 79-1022, 79-1022.02,
23 79-1023, 79-1027, 79-1031.01, 79-1142, and 79-1145, Revised Statutes
24 Cumulative Supplement, 2022, are repealed.

25 Sec. 12. Since an emergency exists, this act takes effect when
26 passed and approved according to law.