

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 583

FINAL READING

Introduced by Sanders, 45; Conrad, 46; at the request of the Governor.

Read first time January 17, 2023

Committee: Education

1 A BILL FOR AN ACT relating to education; to amend sections 79-1001,
2 79-1009, 79-1017.01, 79-1022, 79-1022.02, 79-1023, 79-1027,
3 79-1031.01, and 79-1142, Revised Statutes Cumulative Supplement,
4 2022; to provide for foundation aid and change provisions relating
5 to net option funding, local system formula resources, and certain
6 certification dates under the Tax Equity and Educational
7 Opportunities Support Act; to change reimbursement provisions under
8 the Special Education Act; to provide duties for school districts
9 and the State Department of Education; to harmonize provisions; to
10 repeal the original sections; and to declare an emergency.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1001, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 79-1001 Sections 79-1001 to 79-1033 and sections 3 and 10 of this
4 act shall be known and may be cited as the Tax Equity and Educational
5 Opportunities Support Act.

6 Sec. 2. Section 79-1009, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 79-1009 (1)(a) A district shall receive net option funding if (i)
9 option students as defined in section 79-233 were actually enrolled in
10 the school year immediately preceding the school year in which the aid is
11 to be paid, (ii) option students as defined in such section will be
12 enrolled in the school year in which the aid is to be paid as converted
13 contract option students, or (iii) for the calculation of aid for school
14 fiscal year 2017-18 for school districts that are members of a learning
15 community, open enrollment students were actually enrolled for school
16 year 2016-17 pursuant to section 79-2110.

17 (b) The determination of the net number of option students shall be
18 based on (i) the number of students enrolled in the district as option
19 students and the number of students residing in the district but enrolled
20 in another district as option students as of the day of the fall
21 membership count pursuant to section 79-528, for the school fiscal year
22 immediately preceding the school fiscal year in which aid is to be paid,
23 (ii) the number of option students that will be enrolled in the district
24 or enrolled in another district as converted contract option students for
25 the fiscal year in which the aid is to be paid, and (iii) for the
26 calculation of aid for school fiscal year 2017-18 for school districts
27 that are members of a learning community, the number of students enrolled
28 in the district as open enrollment students and the number of students
29 residing in the district but enrolled in another district as open
30 enrollment students as of the day of the fall membership count pursuant
31 to section 79-528 for school fiscal year 2016-17.

1 (c) Except as otherwise provided in this subsection, net number of
2 option students means the difference of the number of option students
3 enrolled in the district minus the number of students residing in the
4 district but enrolled in another district as option students. For
5 purposes of the calculation of aid for school fiscal year 2017-18 for
6 school districts that are members of a learning community, net number of
7 option students means the difference of the number of students residing
8 in another school district who are option students or open enrollment
9 students enrolled in the district minus the number of students residing
10 in the district but enrolled in another district as option students or
11 open enrollment students.

12 (2)(a) For ~~all~~ school fiscal years prior to school fiscal year
13 2023-24 ~~except school fiscal years 2017-18 and 2018-19~~, net option
14 funding shall be the product of the net number of option students
15 multiplied by the statewide average basic funding per formula student.

16 (b) For school fiscal year 2023-24 and each school fiscal year
17 thereafter, net option funding shall be the product of the net number of
18 option students multiplied by the difference of the statewide average
19 basic funding per formula student minus the amount of foundation aid paid
20 per formula student pursuant to section 3 of this act. ~~For school fiscal~~
21 ~~years 2017-18 and 2018-19, net option funding shall be the product of the~~
22 ~~net number of option students multiplied by ninety-five and five-tenths~~
23 ~~percent of the statewide average basic funding per formula student.~~

24 (3) A district's net option funding shall be zero if the calculation
25 produces a negative result.

26 Payments made under this section for school fiscal years prior to
27 school fiscal year 2017-18 shall be made from the funds to be disbursed
28 under section 79-1005.01.

29 Such payments shall go directly to the option school district but
30 shall count as a formula resource for the local system.

31 Sec. 3. (1) For school fiscal year 2023-24 and each school fiscal

1 year thereafter, the department shall determine the foundation aid to be
2 paid to each school district in accordance with subsection (2) of this
3 section.

4 (2) The foundation aid to be paid to each school district in each
5 school fiscal year shall equal one thousand five hundred dollars
6 multiplied by the number of formula students for such school district.

7 (3) Twenty-four percent of the total amount of foundation aid paid
8 each school fiscal year shall be paid from money appropriated from the
9 Education Future Fund.

10 (4) For school fiscal years 2023-24 and 2024-25, one hundred percent
11 of foundation aid shall be included as a formula resource pursuant to
12 section 79-1017.01. For school fiscal year 2025-26 and each school fiscal
13 year thereafter, sixty percent of foundation aid shall be included as a
14 formula resource pursuant to section 79-1017.01.

15 Sec. 4. Section 79-1017.01, Revised Statutes Cumulative Supplement,
16 2022, is amended to read:

17 79-1017.01 (1) For state aid calculated for each school fiscal year
18 prior to school fiscal year 2023-24, local system formula resources
19 includes other actual receipts determined pursuant to section 79-1018.01,
20 net option funding determined pursuant to section 79-1009, allocated
21 income tax funds determined pursuant to section 79-1005.01, and community
22 achievement plan aid determined pursuant to section 79-1005, and is
23 reduced by amounts paid by the district in the most recently available
24 complete data year as property tax refunds pursuant to or in the manner
25 prescribed by section 77-1736.06.

26 (2) For state aid calculated for school fiscal year 2023-24 and each
27 school fiscal year thereafter, local system formula resources includes
28 other actual receipts determined pursuant to section 79-1018.01, net
29 option funding determined pursuant to section 79-1009, allocated income
30 tax funds determined pursuant to section 79-1005.01, community
31 achievement plan aid determined pursuant to section 79-1005, and a

1 percentage of foundation aid determined pursuant to section 3 of this
2 act, and is reduced by amounts paid by the district in the most recently
3 available complete data year as property tax refunds pursuant to or in
4 the manner prescribed by section 77-1736.06.

5 Sec. 5. Section 79-1022, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 79-1022 (1) On or before June 15 ~~May 1, 2023~~ ~~2020~~, and on or before
8 March 1 of each year thereafter, the department shall determine the
9 amounts to be distributed to each local system for the ensuing school
10 fiscal year pursuant to the Tax Equity and Educational Opportunities
11 Support Act and shall certify the amounts to the Director of
12 Administrative Services, the Auditor of Public Accounts, and each local
13 system. On or before June 15 ~~May 1, 2023~~ ~~2020~~, and on or before March 1
14 of each year thereafter, the department shall report the necessary
15 funding level for the ensuing school fiscal year to the Governor, the
16 Appropriations Committee of the Legislature, and the Education Committee
17 of the Legislature. The report submitted to the committees of the
18 Legislature shall be submitted electronically. Except as otherwise
19 provided in this subsection, certified state aid amounts, including
20 adjustments pursuant to section 79-1065.02, shall be shown as budgeted
21 non-property-tax receipts and deducted prior to calculating the property
22 tax request in the local system's general fund budget statement as
23 provided to the Auditor of Public Accounts pursuant to section 79-1024.

24 (2) Except as provided in this subsection, subsection (8) of section
25 79-1016, and sections 79-1005, 79-1033, and 79-1065.02, the amounts
26 certified pursuant to subsection (1) of this section shall be distributed
27 in ten as nearly as possible equal payments on the last business day of
28 each month beginning in September of each ensuing school fiscal year and
29 ending in June of the following year, except that when a local system is
30 to receive a monthly payment of less than one thousand dollars, such
31 payment shall be one lump-sum payment on the last business day of

1 December during the ensuing school fiscal year.

2 Sec. 6. Section 79-1022.02, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 79-1022.02 Notwithstanding any other provision of law, any
5 certification of state aid pursuant to section 79-1022, certification of
6 budget authority pursuant to section 79-1023, and certification of
7 applicable allowable reserve percentages pursuant to section 79-1027
8 completed prior to the effective date of this act ~~February 13, 2020~~, for
9 school fiscal year 2023-24 ~~2020-21~~ are null and void.

10 Sec. 7. Section 79-1023, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 79-1023 (1) On or before June 15 ~~May 1, 2023~~ ~~2020~~, and on or before
13 March 1 of each year thereafter, the department shall determine and
14 certify to each school district budget authority for the general fund
15 budget of expenditures for the ensuing school fiscal year.

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

1 before September 30 for the immediately preceding school fiscal year,
2 which special education budget of expenditures is increased by the basic
3 allowable growth rate for the school fiscal year for which budget
4 authority is being calculated.

5 (3) For any school fiscal year for which the budget authority for
6 the general fund budget of expenditures for a school district is based on
7 a student growth adjustment, the budget authority for the general fund
8 budget of expenditures for such school district shall be adjusted in
9 future years to reflect any student growth adjustment corrections related
10 to such student growth adjustment.

11 Sec. 8. Section 79-1027, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

13 79-1027 No district shall adopt a budget, which includes total
14 requirements of depreciation funds, necessary employee benefit fund cash
15 reserves, and necessary general fund cash reserves, exceeding the
16 applicable allowable reserve percentages of total general fund budget of
17 expenditures as specified in the schedule set forth in this section.

18	Average daily	Allowable
19	membership of	reserve
20	district	percentage
21	0 - 471	45
22	471.01 - 3,044	35
23	3,044.01 - 10,000	25
24	10,000.01 and over	20

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

29 Each district with combined necessary general fund cash reserves,
30 total requirements of depreciation funds, and necessary employee benefit
31 fund cash reserves less than the applicable allowable reserve percentage

1 specified in this section may, notwithstanding the district's applicable
2 allowable growth rate, increase its necessary general fund cash reserves
3 such that the total necessary general fund cash reserves, total
4 requirements of depreciation funds, and necessary employee benefit fund
5 cash reserves do not exceed such applicable allowable reserve percentage.

6 Sec. 9. Section 79-1031.01, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 79-1031.01 The Appropriations Committee of the Legislature shall
9 annually include the amount necessary to fund the state aid that will be
10 certified to school districts on or before June 15 ~~May 1, 2023~~ ~~2020~~, and
11 on or before March 1 of each year thereafter for each ensuing school
12 fiscal year in its recommendations to the Legislature to carry out the
13 requirements of the Tax Equity and Educational Opportunities Support Act.

14 Sec. 10. (1) For school fiscal year 2023-24 and each school fiscal
15 year thereafter, each school district shall submit a report to the
16 department that includes the following information:

17 (a) The amount by which the school district reduced its property tax
18 request for such school fiscal year, if any such reduction occurred; and

19 (b) Other information as required by the department.

20 (2) The department shall compile the information received from
21 school districts under subsection (1) of this section and shall submit a
22 comprehensive report of all such information annually to the Governor,
23 the chairperson of the Education Committee of the Legislature, and the
24 Clerk of the Legislature. The report submitted to the committee and the
25 Clerk of the Legislature shall be submitted electronically.

26 Sec. 11. Section 79-1142, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

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

1 counselor services.

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

11 (3) For special education and support services provided in each
12 school fiscal year, the department shall reimburse each school district
13 in the following school fiscal year eighty percent of a pro rata amount
14 ~~determined by the department. The reimbursement percentage shall be the~~
15 ~~ratio of the difference of the appropriations for special education~~
16 ~~approved by the Legislature minus the amounts set aside pursuant to~~
17 ~~subsection (5) of this section divided by the total allowable excess~~
18 ~~costs for all special education programs and support services.—(4)~~
19 Cooperatives of school districts or educational service units shall also
20 be eligible for reimbursement for cooperative programs pursuant to this
21 section if such cooperatives or educational service units have complied
22 with the reporting and approval requirements of section 79-1155 for
23 cooperative programs which were offered the preceding year.

24 (4)(a) The payments shall be made by the department to the school
25 district of residence, cooperative of school districts, or educational
26 service unit each year in a minimum of seven payments between the fifth
27 and twentieth day of each month beginning in December. Additional
28 payments may be made based upon additional valid claims submitted. The
29 State Treasurer shall, between the fifth and twentieth day of each month,
30 notify the Director of Administrative Services of the amount of funds
31 available in the General Fund and the Education Future Fund for payment

1 purposes. The director shall, upon receiving such certification, draw
2 warrants against such funds as appropriated.

3 (b) If the General Fund appropriations for special education
4 approved by the Legislature, minus the amounts set aside pursuant to
5 subsection (5) of this section, are insufficient to reimburse eighty
6 percent of the total allowable excess costs for all special education
7 programs and support services for any school fiscal year:

8 (i) Such allowable excess costs shall be reimbursed from the General
9 Fund appropriations for special education approved by the Legislature,
10 minus the amounts set aside pursuant to subsection (5) of this section,
11 on a pro rata basis at the maximum rate of reimbursement such
12 appropriations will allow as determined by the department; and

13 (ii) The remainder of the eighty percent reimbursement of such
14 allowable excess costs shall be paid from the Education Future Fund.

15 (5) Residential settings described in subdivision (10)(c) of section
16 79-215 shall be reimbursed for the educational services, including
17 special education services and support services, in an amount determined
18 pursuant to the average per pupil cost of the service agency.
19 Reimbursements pursuant to this section shall be made from funds set
20 aside for such purpose within sixty days after receipt of a reimbursement
21 request submitted in the manner required by the department and including
22 any documentation required by the department for educational services
23 that have been provided, except that if there are not any funds available
24 for the remainder of the state fiscal year for such reimbursements, the
25 reimbursement shall occur within thirty days after the beginning of the
26 immediately following state fiscal year. The department may audit any
27 required documentation and subtract any payments made in error from
28 future reimbursements. The department shall set aside separate amounts
29 from the appropriations for special education approved by the Legislature
30 for reimbursements pursuant to this subsection for students receiving
31 special education services and for students receiving support services

1 for each state fiscal year. The amounts set aside for each purpose shall
2 be based on estimates of the reimbursements to be requested during the
3 state fiscal year and shall not be less than the total amount of
4 reimbursements requested in the prior state fiscal year plus any unpaid
5 requests from the prior state fiscal year.

6 (6) On or before November 15 of each year, the department shall
7 submit to the Governor, the Appropriations Committee of the Legislature,
8 and the Education Committee of the Legislature:

9 (a) The total allowable excess costs for all special education
10 programs and support services for all school districts, cooperatives of
11 school districts, and educational service units; and

12 (b) The total reimbursements requested pursuant to subsection (5) of
13 this section for the most recently completed school fiscal year.

14 Sec. 12. Original sections 79-1001, 79-1009, 79-1017.01, 79-1022,
15 79-1022.02, 79-1023, 79-1027, 79-1031.01, and 79-1142, Revised Statutes
16 Cumulative Supplement, 2022, are repealed.

17 Sec. 13. Since an emergency exists, this act takes effect when
18 passed and approved according to law.