

LEGISLATIVE BILL 21

Approved by the Governor January 31, 2007

Introduced by Raikes, 25

FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1007.02 and 79-1007.10, Revised Statutes Cumulative Supplement, 2006, and sections 79-1022, 79-1026, 79-1027, and 79-1031.01, Revised Statutes Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422; to change provisions relating to cost growth factor; 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 79-1007.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1007.02 For state aid calculated for school fiscal year 1998-99 and each school fiscal year thereafter:

(1) Using data from the annual financial reports for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the annual statistical summary reports for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the fall membership reports and supplements thereto for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, and the school district census as reported under sections 79-524 and 79-578 for the second school fiscal year preceding the school fiscal year in which aid is to be paid, the department shall divide the local systems into three cost groupings prior to the certification of state aid based upon the following criteria:

(a) The very sparse cost grouping will consist of local systems that have (i) (A) less than one-half student per square mile in each county in which each high school attendance center is located, based on the school district census, (B) less than one formula student per square mile in the local system, and (C) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads or (ii) (A) more than four hundred fifty square miles in the local system, (B) less than one-half student per square mile in the local system, and (C) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads;

(b) The sparse cost grouping will consist of local systems that do not qualify for the very sparse cost grouping but which meet the following criteria:

(i) (A) Less than two students per square mile in the county in which each high school is located, based on the school district census, (B) less than one formula student per square mile in the local system, and (C) more than ten miles between each high school attendance center and the next closest high school attendance center on paved roads;

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

(iii) (A) Less than one and one-half formula students per square mile in the local system and (B) more than two hundred seventy-five square miles in the local system; or

(iv) (A) Less than two formula students per square mile in the local system and (B) the local system includes an area equal to ninety-five percent or more of the square miles in the largest county in which a high school attendance center is located in the local system; and

(c) The standard cost grouping will consist of local systems that do not qualify for the very sparse or the sparse cost groupings.

For purposes of subdivision (1) of this section, if a local system did not operate and offer instruction in grades nine through twelve within the boundaries of the local system during the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the local system shall not be considered to have a high school attendance center;

(2) (a) The department shall calculate the average formula cost per student in each cost grouping by dividing the total estimated general fund operating expenditures for the cost grouping by the difference between the total adjusted formula students for all local systems in the cost grouping minus (i) the adjusted formula students attributed to early childhood education programs approved by the department pursuant to section 79-1103 for

the first two school fiscal years for which students attributed to early childhood education programs approved by the department pursuant to section 79-1103 are being included in the calculation of state aid for the local system and (ii) for the first two school fiscal years immediately following the school fiscal year in which a district in the local system received an expansion grant pursuant to section 79-1103, the difference between the adjusted formula students attributed to early childhood education programs approved by the department pursuant to section 79-1103 for the school fiscal year immediately following the school fiscal year in which a district in the local system received an expansion grant minus the adjusted formula students attributed to early childhood education programs approved by the department pursuant to section 79-1103 for the school fiscal year in which a district in the local system received an expansion grant. For the calculation of state aid for school fiscal year 1999-00 and for each school fiscal year thereafter, the average formula cost per student in each cost grouping shall not be recalculated for the final calculation of state aid pursuant to section 79-1065. The calculation of total adjusted formula students for purposes of this subdivision shall take into account the requirements of subdivision (2) of section 79-1007.01. For school fiscal years prior to school fiscal year 2008-09, the total estimated general fund operating expenditures for the cost grouping is equal to the total adjusted general fund operating expenditures for all local systems in the cost grouping multiplied by a cost growth factor. For school fiscal year 2008-09 and each school fiscal year thereafter, the total estimated general fund operating expenditures for the cost grouping is equal to the total adjusted general fund operating expenditures for all local systems in the cost grouping.

(b) The cost growth factor for each cost grouping is equal to the sum of: (i) One; plus (ii) the product of two times the ratio of the difference between of (A) the formula students attributable to the cost grouping without weighting or adjustment pursuant to section 79-1007.01 minus the qualified early childhood education fall membership attributable to the cost grouping without such weighting or adjustment for state aid certified pursuant to section 79-1022 and minus (B) the difference of the sum of the average daily membership plus tuitioned students attributable to the cost grouping for the most recently available complete data year minus the qualified early childhood education average daily membership attributable to the cost grouping without such weighting or adjustment for the most recently available complete data year divided by the difference of the sum of the average daily membership plus tuitioned students attributable to the cost grouping for the most recently available complete data year minus the qualified early childhood education average daily membership attributable to the cost grouping without such weighting or adjustment for the most recently available complete data year, except that the ratio shall not be less than zero; plus (iii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (iv) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (v) one-half of any additional growth rate allowed by special action of school boards for the school fiscal year in which the aid is to be distributed as determined for the school fiscal year immediately preceding the school fiscal year when aid is to be distributed; plus (vi) one-half of any additional growth rate allowed by special action of the school boards for the school fiscal year immediately preceding the school fiscal year when the aid is to be distributed;

(3) For school fiscal years 2002-03 through 2006-07, each local system's formula need shall be calculated by subtracting the temporary aid adjustment factor from the sum of the local system's transportation allowance, the local system's special receipts allowance, and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping. The calculation of total adjusted formula students for purposes of this subdivision shall take into account the requirements of subdivision (2) of section 79-1007.01;

(4) For school fiscal year 2007-08, each local system's formula need shall be calculated by subtracting the temporary aid adjustment factor from the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping. The calculation of total adjusted formula students for purposes of this subdivision shall take into account the requirements of subdivision (2) of section 79-1007.01; and

(5) For school fiscal year 2008-09 and each school fiscal year

thereafter, each school district's formula need shall equal the greater of (a) the sum of the school district's transportation allowance, elementary class size allowance, focus school and program allowance, limited English proficiency allowance, poverty allowance, special receipts allowance, and distance education and telecommunications allowance plus the product of the school district's adjusted formula students multiplied by the average formula cost per student in the school district's local system cost grouping or (b) if the school district's general fund levy was at or above ninety-nine cents per one hundred dollars of valuation for the previous year, the school district's prior year formula need multiplied by one hundred percent. The calculation of total adjusted formula students for purposes of this subdivision shall take into account the requirements of subdivision (2) of section 79-1007.03.

Sec. 2. Section 79-1007.10, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1007.10 For state aid calculated for school fiscal year 2008-09 and each school fiscal year thereafter, the cost growth factor for each cost grouping is equal to the sum of: (1) One; plus (2) the product of two times the ratio of the difference between of (a) the formula students attributable to the cost grouping without weighting or adjustment pursuant to section 79-1007.03 minus the qualified early childhood education fall membership attributable to the cost grouping without such weighting or adjustment for state aid certified pursuant to section 79-1022 and minus (b) the difference of the sum of the average daily membership plus tuitioned students attributable to the cost grouping for the most recently available complete data year minus the qualified early childhood education average daily membership attributable to the cost grouping without such weighting or adjustment for the most recently available complete data year divided by the difference of the sum of the average daily membership plus tuitioned students attributable to the cost grouping for the most recently available complete data year minus the qualified early childhood education average daily membership attributable to the cost grouping without such weighting or adjustment for the most recently available complete data year, except that the ratio shall not be less than zero; plus (3) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (4) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (5) any additional growth rate allowed by special action of school boards for the school fiscal year in which the aid is to be distributed as determined for the school fiscal year immediately preceding the school fiscal year when aid is to be distributed; plus (6) any additional growth rate allowed by special action of the school boards for the school fiscal year immediately preceding the school fiscal year when the aid is to be distributed.

Sec. 3. Section 79-1022, Revised Statutes Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422, is amended to read:

79-1022 (1) On or before ~~June 15, 2003~~, February 15, 2007, and on or before February 1 for 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 the weighted formula students attributed to each district in the local system. 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 ~~June 15, 2003~~, February 15, 2007, and on or before February 1 for 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. 4. Section 79-1026, Revised Statutes Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422, is amended to read:

79-1026 For school fiscal years prior to 2008-09: On or before ~~June 15, 2003,~~ February 15, 2007, and on or before February 1 for each year thereafter, the department shall determine and certify to each Class II, III, IV, V, or VI district an applicable allowable growth rate carried out at least four decimal places for each local system 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 local system which shall begin at twenty percent less than the local system's formula need and end at the local system'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 local system'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 local system'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 local system's general fund operating expenditures are greater than the higher end of the range, the local system's allowable growth rate shall be the basic allowable growth rate identified in such section. If each local system'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 local system.

Sec. 5. Section 79-1027, Revised Statutes Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422, 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 5, 2003,~~ February 15, 2007, 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. 6. Section 79-1031.01, Revised Statutes Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422, is amended to read:

79-1031.01 The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid certified to school districts on or before ~~May 1, 2002,~~ February 15, 2007, and on or before

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

Sec. 7. Original sections 79-1007.02 and 79-1007.10, Revised Statutes Cumulative Supplement, 2006, and sections 79-1022, 79-1026, 79-1027, and 79-1031.01, Revised Statutes Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422, are repealed.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.