

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1065**

Introduced by Sullivan, 41.

Read first time January 20, 2016

Committee: Education

1 A BILL FOR AN ACT relating to schools; to amend sections 79-1003,  
2 79-10,143, 79-2110, and 79-2120, Revised Statutes Supplement, 2015;  
3 to change provisions relating to the community eligibility  
4 provision; to harmonize provisions; and to repeal the original  
5 sections.  
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Revised Statutes Supplement, 2015, 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 (a) for  
6 school fiscal years 2013-14 through 2015-16, the difference of the  
7 general fund operating expenditures as calculated pursuant to subdivision  
8 (23) of this section increased by the cost growth factor calculated  
9 pursuant to section 79-1007.10, minus the transportation allowance,  
10 special receipts allowance, poverty allowance, limited English  
11 proficiency allowance, distance education and telecommunications  
12 allowance, elementary site allowance, summer school allowance,  
13 instructional time allowance, teacher education allowance, and focus  
14 school and program allowance, and (b) for school fiscal year 2016-17 and  
15 each school fiscal year thereafter, the difference of the general fund  
16 operating expenditures as calculated pursuant to subdivision (23) of this  
17 section increased by the cost growth factor calculated pursuant to  
18 section 79-1007.10, minus the transportation allowance, special receipts  
19 allowance, poverty allowance, limited English proficiency allowance,  
20 distance education and telecommunications allowance, elementary site  
21 allowance, summer school allowance, best practices allowance, and focus  
22 school and program allowance;

23 (2) Adjusted valuation means the assessed valuation of taxable  
24 property of each local system in the state, adjusted pursuant to the  
25 adjustment factors described in section 79-1016. Adjusted valuation means  
26 the adjusted valuation for the property tax year ending during the school  
27 fiscal year immediately preceding the school fiscal year in which the aid  
28 based upon that value is to be paid. For purposes of determining the  
29 local effort rate yield pursuant to section 79-1015.01, adjusted  
30 valuation does not include the value of any property which a court, by a  
31 final judgment from which no appeal is taken, has declared to be

1 nontaxable or exempt from taxation;

2 (3) Allocated income tax funds means the amount of assistance paid  
3 to a local system pursuant to section 79-1005.01 as adjusted by the  
4 minimum levy adjustment pursuant to section 79-1008.02;

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

10 (5) Base fiscal year means the first school fiscal year following  
11 the school fiscal year in which the reorganization or unification  
12 occurred;

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

14 (7) Categorical funds means funds limited to a specific purpose by  
15 federal or state law, including, but not limited to, Title I funds, Title  
16 VI funds, federal vocational education funds, federal school lunch funds,  
17 Indian education funds, Head Start funds, and funds from the Education  
18 Innovation Fund. Categorical funds does not include funds received  
19 pursuant to section 79-1028.02 or 79-1028.04;

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

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

31 (10) Converted contract option student means a student who will be

1 an option student pursuant to the enrollment option program established  
2 in section 79-234 for the school fiscal year for which aid is being  
3 calculated and who would have been covered by a converted contract if the  
4 contract were still in effect and such school fiscal year is the first  
5 school fiscal year for which such contract is not in effect;

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

7 (12) District means any Class I, II, III, IV, V, or VI school  
8 district and, beginning with the calculation of state aid for school  
9 fiscal year 2011-12 and each school fiscal year thereafter, a unified  
10 system as defined in section 79-4,108;

11 (13) Ensuing school fiscal year means the school fiscal year  
12 following the current school fiscal year;

13 (14) Equalization aid means the amount of assistance calculated to  
14 be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23,  
15 79-1007.25, 79-1008.01 to 79-1022, 79-1022.02, 79-1028.02, and  
16 79-1028.04;

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

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

23 (17) Formula students means:

24 (a) For state aid certified pursuant to section 79-1022, the sum of  
25 the product of fall membership from the school fiscal year immediately  
26 preceding the school fiscal year in which the aid is to be paid  
27 multiplied by the average ratio of average daily membership to fall  
28 membership for the second school fiscal year immediately preceding the  
29 school fiscal year in which the aid is to be paid and the prior two  
30 school fiscal years plus sixty percent of the qualified early childhood  
31 education fall membership plus tuitioned students from the school fiscal

1 year immediately preceding the school fiscal year in which aid is to be  
2 paid minus the product of the number of students enrolled in kindergarten  
3 that is not full-day kindergarten from the fall membership multiplied by  
4 0.5; and

5 (b) For the final calculation of state aid pursuant to section  
6 79-1065, the sum of average daily membership plus sixty percent of the  
7 qualified early childhood education average daily membership plus  
8 tuitioned students minus the product of the number of students enrolled  
9 in kindergarten that is not full-day kindergarten from the average daily  
10 membership multiplied by 0.5 from the school fiscal year immediately  
11 preceding the school fiscal year in which aid was paid;

12 ~~(18)(a) (18)~~ Free lunch and free milk calculated student means, for  
13 school fiscal year 2016-17 ~~and each school fiscal year thereafter~~, using  
14 the most recent data available on November 1 of the school fiscal year  
15 immediately preceding the school fiscal year in which aid is to be paid,  
16 (i a) a student who qualified for free lunches or free milk and attended  
17 a school that uses information collected from parents and guardians  
18 pursuant to section 79-10,143 to determine such qualifications pursuant  
19 to the federal Richard B. Russell National School Lunch Act, 42 U.S.C.  
20 1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. 1771  
21 et seq., as such acts and sections existed on January 1, 2015, and rules  
22 and regulations adopted thereunder, plus (ii b) the product of the  
23 students who attend a school that provides free meals to all students  
24 pursuant to the community eligibility provision multiplied by the  
25 identified student percentage calculated pursuant to such federal  
26 provision; and

27 (b) Free lunch and free milk calculated students for each school  
28 district means, for school fiscal year 2017-18 and each school fiscal  
29 year thereafter, using the most recent data available on November 1 of  
30 the school fiscal year immediately preceding the school fiscal year in  
31 which aid is to be paid, the sum of (i) for schools that did not provide

1 free meals to all students pursuant to the community eligibility  
2 provision, the number of students who qualified for free lunches or free  
3 milk pursuant to the federal Richard B. Russell National School Lunch  
4 Act, 42 U.S.C. 1751 et seq., and the federal Child Nutrition Act of 1966,  
5 42 U.S.C. 1771 et seq., as such acts and sections existed on January 1,  
6 2016, and rules and regulations adopted thereunder, plus (ii) for schools  
7 that provided free meals to all students pursuant to the community  
8 eligibility provision, one hundred ten percent of the students qualified  
9 for free meals at such school pursuant to the community eligibility  
10 provision multiplied by the identified student percentage calculated  
11 pursuant to such federal provision, except that the free lunch and free  
12 milk students calculated for any school pursuant to subdivision (18)(b)  
13 (ii) of this section shall not exceed one hundred percent of the students  
14 qualified for free meals at such school pursuant to the community  
15 eligibility provision;

16 (19) Free lunch and free milk student means, for school fiscal years  
17 prior to school fiscal year 2016-17, a student who qualified for free  
18 lunches or free milk from the most recent data available on November 1 of  
19 the school fiscal year immediately preceding the school fiscal year in  
20 which aid is to be paid;

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

23 (21) General fund budget of expenditures means the total budget of  
24 disbursements and transfers for general fund purposes as certified in the  
25 budget statement adopted pursuant to the Nebraska Budget Act, except that  
26 for purposes of the limitation imposed in section 79-1023 and the  
27 calculation pursuant to subdivision (2) of section 79-1027.01, the  
28 general fund budget of expenditures does not include any special grant  
29 funds, exclusive of local matching funds, received by a district;

30 (22) General fund expenditures means all expenditures from the  
31 general fund;

1           (23) General fund operating expenditures means for state aid  
2 calculated for school fiscal years 2012-13 and each school fiscal year  
3 thereafter, as reported on the annual financial report for the second  
4 school fiscal year immediately preceding the school fiscal year in which  
5 aid is to be paid, the total general fund expenditures minus (a) the  
6 amount of all receipts to the general fund, to the extent that such  
7 receipts are not included in local system formula resources, from early  
8 childhood education tuition, summer school tuition, educational entities  
9 as defined in section 79-1201.01 for providing distance education courses  
10 through the Educational Service Unit Coordinating Council to such  
11 educational entities, private foundations, individuals, associations,  
12 charitable organizations, the textbook loan program authorized by section  
13 79-734, federal impact aid, and levy override elections pursuant to  
14 section 77-3444, (b) the amount of expenditures for categorical funds,  
15 tuition paid, transportation fees paid to other districts, adult  
16 education, community services, redemption of the principal portion of  
17 general fund debt service, retirement incentive plans authorized by  
18 section 79-855, and staff development assistance authorized by section  
19 79-856, (c) the amount of any transfers from the general fund to any bond  
20 fund and transfers from other funds into the general fund, (d) any legal  
21 expenses in excess of fifteen-hundredths of one percent of the formula  
22 need for the school fiscal year in which the expenses occurred, (e)  
23 expenditures to pay for sums agreed to be paid by a school district to  
24 certificated employees in exchange for a voluntary termination occurring  
25 prior to July 1, 2009, occurring on or after the last day of the 2010-11  
26 school year and prior to the first day of the 2013-14 school year, or, to  
27 the extent that a district has demonstrated to the State Board of  
28 Education pursuant to section 79-1028.01 that the agreement will result  
29 in a net savings in salary and benefit costs to the school district over  
30 a five-year period, occurring on or after the first day of the 2013-14  
31 school year, (f)(i) expenditures to pay for employer contributions

1 pursuant to subsection (2) of section 79-958 to the School Employees  
2 Retirement System of the State of Nebraska to the extent that such  
3 expenditures exceed the employer contributions under such subsection that  
4 would have been made at a contribution rate of seven and thirty-five  
5 hundredths percent or (ii) expenditures to pay for school district  
6 contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to  
7 the retirement system established pursuant to the Class V School  
8 Employees Retirement Act to the extent that such expenditures exceed the  
9 school district contributions under such subdivision that would have been  
10 made at a contribution rate of seven and thirty-seven hundredths percent,  
11 and (g) any amounts paid by the district for lobbyist fees and expenses  
12 reported to the Clerk of the Legislature pursuant to section 49-1483.

13 For purposes of this subdivision (23) of this section, receipts from  
14 levy override elections shall equal ninety-nine percent of the difference  
15 of the total general fund levy minus a levy of one dollar and five cents  
16 per one hundred dollars of taxable valuation multiplied by the assessed  
17 valuation for school districts that have voted pursuant to section  
18 77-3444 to override the maximum levy provided pursuant to section  
19 77-3442;

20 (24) High school district means a school district providing  
21 instruction in at least grades nine through twelve;

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

25 (26) Income tax receipts means the amount of income tax collected  
26 pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable  
27 credits earned and refunds made;

28 (27) Limited English proficiency students means the number of  
29 students with limited English proficiency in a district from the most  
30 recent data available on November 1 of the school fiscal year preceding  
31 the school fiscal year in which aid is to be paid plus the difference of

1 such students with limited English proficiency minus the average number  
2 of limited English proficiency students for such district, prior to such  
3 addition, for the three immediately preceding school fiscal years if such  
4 difference is greater than zero;

5 (28) Local system means a learning community for purposes of  
6 calculation of state aid for the second full school fiscal year after  
7 becoming a learning community and each school fiscal year thereafter, a  
8 unified system, a Class VI district and the associated Class I districts,  
9 or a Class II, III, IV, or V district and any affiliated Class I  
10 districts or portions of Class I districts. The membership, expenditures,  
11 and resources of Class I districts that are affiliated with multiple high  
12 school districts will be attributed to local systems based on the percent  
13 of the Class I valuation that is affiliated with each high school  
14 district;

15 (29) Low-income child means (a) for school fiscal years prior to  
16 2016-17, a child under nineteen years of age living in a household having  
17 an annual adjusted gross income for the second calendar year preceding  
18 the beginning of the school fiscal year for which aid is being calculated  
19 equal to or less than the maximum household income that would allow a  
20 student from a family of four people to be a free lunch and free milk  
21 student during the school fiscal year immediately preceding the school  
22 fiscal year for which aid is being calculated and (b) for school fiscal  
23 year 2016-17 and each school fiscal year thereafter, a child under  
24 nineteen years of age living in a household having an annual adjusted  
25 gross income for the second calendar year preceding the beginning of the  
26 school fiscal year for which aid is being calculated equal to or less  
27 than the maximum household income pursuant to sections 9(b)(1) and 17(c)  
28 (4) of the Richard B. Russell National School Lunch Act, 42 U.S.C.  
29 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6)  
30 and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6)  
31 and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections

1 existed on January 1, 2015, for a household of that size that would have  
2 allowed the child to meet the income qualifications for free meals during  
3 the school fiscal year immediately preceding the school fiscal year for  
4 which aid is being calculated;

5 (30) Low-income students means the number of low-income children  
6 within the district multiplied by the ratio of the formula students in  
7 the district divided by the total children under nineteen years of age  
8 residing in the district as derived from income tax information;

9 (31) Most recently available complete data year means the most  
10 recent single school fiscal year for which the annual financial report,  
11 fall school district membership report, annual statistical summary,  
12 Nebraska income tax liability by school district for the calendar year in  
13 which the majority of the school fiscal year falls, and adjusted  
14 valuation data are available;

15 (32) Poverty students means (a) for school fiscal years prior to  
16 2016-17, the number of low-income students or the number of students who  
17 are free lunch and free milk students in a district plus the difference  
18 of the number of low-income students or the number of students who are  
19 free lunch and free milk students in a district, whichever is greater,  
20 minus the average number of poverty students for such district, prior to  
21 such addition, for the three immediately preceding school fiscal years if  
22 such difference is greater than zero and (b) for school fiscal year  
23 2016-17 and each school fiscal year thereafter, the unadjusted poverty  
24 students plus the difference of such unadjusted poverty students minus  
25 the average number of poverty students for such district, prior to such  
26 addition, for the three immediately preceding school fiscal years if such  
27 difference is greater than zero;

28 (33) Qualified early childhood education average daily membership  
29 means the product of the average daily membership for school fiscal year  
30 2006-07 and each school fiscal year thereafter of students who will be  
31 eligible to attend kindergarten the following school year and are

1 enrolled in an early childhood education program approved by the  
2 department pursuant to section 79-1103 for such school district for such  
3 school year multiplied by the ratio of the actual instructional hours of  
4 the program divided by one thousand thirty-two if: (a) The program is  
5 receiving a grant pursuant to such section for the third year; (b) the  
6 program has already received grants pursuant to such section for three  
7 years; or (c) the program has been approved pursuant to subsection (5) of  
8 section 79-1103 for such school year and the two preceding school years,  
9 including any such students in portions of any of such programs receiving  
10 an expansion grant;

11 (34) Qualified early childhood education fall membership means the  
12 product of membership on the last Friday in September 2006 and each year  
13 thereafter of students who will be eligible to attend kindergarten the  
14 following school year and are enrolled in an early childhood education  
15 program approved by the department pursuant to section 79-1103 for such  
16 school district for such school year multiplied by the ratio of the  
17 planned instructional hours of the program divided by one thousand  
18 thirty-two if: (a) The program is receiving a grant pursuant to such  
19 section for the third year; (b) the program has already received grants  
20 pursuant to such section for three years; or (c) the program has been  
21 approved pursuant to subsection (5) of section 79-1103 for such school  
22 year and the two preceding school years, including any such students in  
23 portions of any of such programs receiving an expansion grant;

24 (35) Regular route transportation means the transportation of  
25 students on regularly scheduled daily routes to and from the attendance  
26 center;

27 (36) Reorganized district means any district involved in a  
28 consolidation and currently educating students following consolidation;

29 (37) School year or school fiscal year means the fiscal year of a  
30 school district as defined in section 79-1091;

31 (38) Sparse local system means a local system that is not a very

1 sparse local system but which meets the following criteria:

2 (a)(i) Less than two students per square mile in the county in which  
3 each high school is located, based on the school district census, (ii)  
4 less than one formula student per square mile in the local system, and  
5 (iii) more than ten miles between each high school attendance center and  
6 the next closest high school attendance center on paved roads;

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

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

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

18 (39) Special education means specially designed kindergarten through  
19 grade twelve instruction pursuant to section 79-1125, and includes  
20 special education transportation;

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

28 (41) State aid means the amount of assistance paid to a district  
29 pursuant to the Tax Equity and Educational Opportunities Support Act;

30 (42) State board means the State Board of Education;

31 (43) State support means all funds provided to districts by the

1 State of Nebraska for the general fund support of elementary and  
2 secondary education;

3 (44) Statewide average basic funding per formula student means the  
4 statewide total basic funding for all districts divided by the statewide  
5 total formula students for all districts;

6 (45) Statewide average general fund operating expenditures per  
7 formula student means the statewide total general fund operating  
8 expenditures for all districts divided by the statewide total formula  
9 students for all districts;

10 (46) Teacher has the definition found in section 79-101;

11 (47) Temporary aid adjustment factor means (a) for school fiscal  
12 years before school fiscal year 2007-08, one and one-fourth percent of  
13 the sum of the local system's transportation allowance, the local  
14 system's special receipts allowance, and the product of the local  
15 system's adjusted formula students multiplied by the average formula cost  
16 per student in the local system's cost grouping and (b) for school fiscal  
17 year 2007-08, one and one-fourth percent of the sum of the local system's  
18 transportation allowance, special receipts allowance, and distance  
19 education and telecommunications allowance and the product of the local  
20 system's adjusted formula students multiplied by the average formula cost  
21 per student in the local system's cost grouping;

22 (48) Tuition receipts from converted contracts means tuition  
23 receipts received by a district from another district in the most  
24 recently available complete data year pursuant to a converted contract  
25 prior to the expiration of the contract;

26 (49) Tuitioned students means students in kindergarten through grade  
27 twelve of the district whose tuition is paid by the district to some  
28 other district or education agency;

29 (50) Unadjusted poverty students means, for school fiscal year  
30 2016-17 and each school fiscal year thereafter, the greater of the number  
31 of low-income students or the free lunch and free milk calculated

1 students in a district; and

2 (51) Very sparse local system means a local system that has:

3 (a)(i) Less than one-half student per square mile in each county in  
4 which each high school attendance center is located based on the school  
5 district census, (ii) less than one formula student per square mile in  
6 the local system, and (iii) more than fifteen miles between the high  
7 school attendance center and the next closest high school attendance  
8 center on paved roads; or

9 (b)(i) More than four hundred fifty square miles in the local  
10 system, (ii) less than one-half student per square mile in the local  
11 system, and (iii) more than fifteen miles between each high school  
12 attendance center and the next closest high school attendance center on  
13 paved roads.

14 Sec. 2. Section 79-10,143, Revised Statutes Supplement, 2015, is  
15 amended to read:

16 79-10,143 A parent or guardian of any student enrolled in, or in the  
17 process of enrolling in, any school district in the state may voluntarily  
18 provide information on any application submitted pursuant to Nebraska  
19 law, rules, and regulations regarding the applicant's potential to meet  
20 the qualifications for free or reduced-price lunches solely for  
21 determining eligibility pursuant to subsection (4) of section 79-238,  
22 subsection (2) of section 79-241, section 79-2,131, section 79-2,133,  
23 subsection (2) of section 79-611, subdivision (1)(c) and subsection (3)  
24 of section 79-2110, or section 85-2104 ~~without regard to whether the~~  
25 ~~school the child attends, or will attend, is a school that uses such~~  
26 ~~information to qualify students for free or reduced-price meals or a~~  
27 ~~school that provides free meals to all students pursuant to the community~~  
28 ~~eligibility provision.~~ Each school district shall process information  
29 provided pursuant to this section for ~~students who attend a school that~~  
30 ~~provides free meals to all students pursuant to the community eligibility~~  
31 ~~provision~~ in the same manner as the district would to determine the

1 qualification status of the student ~~as the information for students who~~  
2 ~~attend school in a school building that uses such information to qualify~~  
3 ~~students~~ for free or reduced-price meals. Each school district shall  
4 comply with the federal Family Educational Rights and Privacy Act of  
5 1974, 20 U.S.C. 1232g, as such act and section existed on January 1,  
6 2015, and regulations adopted thereunder with regard to any information  
7 collected pursuant to this section. If no such information is provided  
8 pursuant to this section or on an application for free or reduced-price  
9 meals, the student shall be presumed not to qualify for free or reduced-  
10 price lunches ~~for the purposes of the application.~~

11 Sec. 3. Section 79-2110, Revised Statutes Supplement, 2015, is  
12 amended to read:

13 79-2110 (1)(a) Each diversity plan shall provide for open enrollment  
14 in all school buildings in the learning community, subject to specific  
15 limitations necessary to bring about diverse enrollments in each school  
16 building in the learning community. Such limitations, for school  
17 buildings other than focus schools and programs other than focus  
18 programs, shall include giving preference at each school building first  
19 to siblings of students who will be enrolled as continuing students in  
20 such school building or program for the first school year for which  
21 enrollment is sought in such school building and then to students that  
22 contribute to the socioeconomic diversity of enrollment at each building  
23 and may include establishing zone limitations in which students may  
24 access several schools other than their home attendance area school.  
25 Notwithstanding the limitations necessary to bring about diversity, open  
26 enrollment shall include providing access to students who do not  
27 contribute to the socioeconomic diversity of a school building, if,  
28 subsequent to the open enrollment selection process that is subject to  
29 limitations necessary to bring about diverse enrollments, capacity  
30 remains in a school building. In such a case, students who have applied  
31 to attend such school building shall be selected to attend such school

1 building on a random basis up to the remaining capacity of such building.  
2 A student who has otherwise been disqualified from the school building  
3 pursuant to the school district's code of conduct or related school  
4 discipline rules shall not be eligible for open enrollment pursuant to  
5 this section. Any student who attended a particular school building in  
6 the prior school year and who is seeking education in the grades offered  
7 in such school building shall be allowed to continue attending such  
8 school building as a continuing student.

9 (b) To facilitate the open enrollment provisions of this subsection,  
10 each school year each member school district in a learning community  
11 shall establish a maximum capacity for each school building under such  
12 district's control pursuant to procedures and criteria established by the  
13 learning community coordinating council. Each member school district  
14 shall also establish attendance areas for each school building under the  
15 district's control, except that the school board shall not establish  
16 attendance areas for focus schools or focus programs. The attendance  
17 areas shall be established such that all of the territory of the school  
18 district is within an attendance area for each grade. Students residing  
19 in a school district shall be allowed to attend a school building in such  
20 school district.

21 (c) For purposes of this section and sections 79-238 and 79-611,  
22 student who contributes to the socioeconomic diversity of enrollment  
23 means (i) a student who does not qualify for free or reduced-price  
24 lunches when, based upon the certification pursuant to section 79-2120,  
25 the school building the student will attend either has more students  
26 qualifying for free or reduced-price lunches than the average percentage  
27 of such students in all school buildings in the learning community or  
28 provides free meals to all students pursuant to the community eligibility  
29 provision or (ii) a student who qualifies for free or reduced-price  
30 lunches based on information collected from parents and guardians when,  
31 based upon the certification pursuant to section 79-2120, the school

1 building the student will attend has fewer students qualifying for free  
2 or reduced-price lunches than the average percentage of such students in  
3 all school buildings in the learning community and does not provide free  
4 meals to all students pursuant to the community eligibility provision.

5 (2)(a) On or before March 15 of each year beginning with the year  
6 immediately following the year in which the initial coordinating council  
7 for the learning community takes office, a parent or guardian of a  
8 student residing in a member school district in a learning community may  
9 submit an application to any school district in the learning community on  
10 behalf of a student who is applying to attend a school building for the  
11 following school year that is not in an attendance area where the  
12 applicant resides or a focus school, focus program, or magnet school as  
13 such terms are defined in section 79-769. On or before April 1 of each  
14 year beginning with the year immediately following the year in which the  
15 initial coordinating council for the learning community takes office, the  
16 school district shall accept or reject such applications based on the  
17 capacity of the school building, the eligibility of the applicant for the  
18 school building or program, the number of such applicants that will be  
19 accepted for a given school building, and whether or not the applicant  
20 contributes to the socioeconomic diversity of the school or program to  
21 which he or she has applied and for which he or she is eligible. The  
22 school district shall notify such parent or guardian in writing of the  
23 acceptance or rejection.

24 ~~(b) A parent or guardian may provide information on the application~~  
25 ~~regarding the applicant's potential qualification for free or reduced-~~  
26 ~~price lunches. Any such information provided shall be subject to~~  
27 ~~verification and shall only be used for the purposes of this section.~~  
28 ~~Nothing in this section requires a parent or guardian to provide such~~  
29 ~~information. Determinations about an applicant's qualification for free~~  
30 ~~or reduced-price lunches for purposes of this section shall be based on~~  
31 ~~any verified information provided on the application. If no such~~

1 ~~information is provided the student shall be presumed not to qualify for~~  
2 ~~free or reduced-price lunches for the purposes of this section.~~

3 (b e) A student may not apply to attend a school building in the  
4 learning community for any grades that are offered by another school  
5 building for which the student had previously applied and been accepted  
6 pursuant to this section, absent a hardship exception as established by  
7 the individual school district. On or before September 1 of each year  
8 beginning with the year immediately following the year in which the  
9 initial coordinating council for the learning community takes office,  
10 each school district shall provide to the learning community coordinating  
11 council a complete and accurate report of all applications received,  
12 including the number of students who applied at each grade level at each  
13 building, the number of students accepted at each grade level at each  
14 building, the number of such students that contributed to the  
15 socioeconomic diversity that applied and were accepted, the number of  
16 applicants denied and the rationales for denial, and other such  
17 information as requested by the learning community coordinating council.

18 (3) Each diversity plan may also include establishment of one or  
19 more focus schools or focus programs and the involvement of every member  
20 school district in one or more pathways across member school districts.  
21 Enrollment in each focus school or focus program shall be designed to  
22 reflect the socioeconomic diversity of the learning community as a whole.  
23 School district selection of students for focus schools or focus programs  
24 shall be on a random basis from two pools of applicants, those who  
25 qualify for free and reduced-price lunches and those who do not qualify  
26 for free and reduced-price lunches. The percentage of students selected  
27 for focus schools from the pool of applicants who qualify for free and  
28 reduced-price lunches shall be as nearly equal as possible to the  
29 percentage of the student body of the learning community who qualify for  
30 free and reduced-price lunches. The percentage of students selected for  
31 focus schools from the pool of applicants who do not qualify for free and

1 reduced-price lunches shall be as nearly equal as possible to the  
2 percentage of the student body of the learning community who do not  
3 qualify for free and reduced-price lunches. If more capacity exists in a  
4 focus school or program than the number of applicants for such focus  
5 school or program that contribute to the socioeconomic diversity of the  
6 focus school or program, the school district shall randomly select  
7 applicants up to the number of applicants that will be accepted for such  
8 building. A student who will complete the grades offered at a focus  
9 program, focus school, or magnet school that is part of a pathway shall  
10 be allowed to attend the focus program, focus school, or magnet school  
11 offering the next grade level as part of the pathway as a continuing  
12 student. A student who completes the grades offered at a focus program,  
13 focus school, or magnet school shall be allowed to attend a school  
14 offering the next grade level in the school district responsible for the  
15 focus program, focus school, or magnet school as a continuing student. A  
16 student who attended a program or school in the school year immediately  
17 preceding the first school year for which the program or school will  
18 operate as a focus program or focus school approved by the learning  
19 community and meeting the requirements of section 79-769 and who has not  
20 completed the grades offered at the focus program or focus school shall  
21 be a continuing student in the program or school.

22 (4) On or before February 15 of each year beginning with the year  
23 immediately following the year in which the initial coordinating council  
24 for the learning community takes office, a parent or guardian of a  
25 student who is currently attending a school building or program, except a  
26 magnet school, focus school, or focus program, outside of the attendance  
27 area where the student resides and who will complete the grades offered  
28 at such school building prior to the following school year shall provide  
29 notice, on a form provided by the school district, to the school board of  
30 the school district containing such school building if such student will  
31 attend another school building within such district as a continuing

1 student and which school building such student would prefer to attend. On  
2 or before March 1, such school board shall provide a notice to such  
3 parent or guardian stating which school building or buildings the student  
4 shall be allowed to attend in such school district as a continuing  
5 student for the following school year. If the student resides within the  
6 school district, the notice shall include the school building offering  
7 the grade the student will be entering for the following school year in  
8 the attendance area where the student resides. This subsection shall not  
9 apply to focus schools or programs.

10 (5) A parent or guardian of a student who moves to a new residence  
11 in the learning community after April 1 may apply directly to a school  
12 board within the learning community within ninety days after moving for  
13 the student to attend a school building outside of the attendance area  
14 where the student resides. Such school board shall accept or reject such  
15 application within fifteen days after receiving the application, based on  
16 the number of applications and qualifications pursuant to subsection (2)  
17 or (3) of this section for all other students.

18 (6) A parent or guardian of a student who wishes to change school  
19 buildings for emergency or hardship reasons may apply directly to a  
20 school board within the learning community at any time for the student to  
21 attend a school building outside of the attendance area where the student  
22 resides. Such application shall state the emergency or hardship and shall  
23 be kept confidential by the school board. Such school board shall accept  
24 or reject such application within fifteen days after receiving the  
25 application. Applications shall only be accepted if an emergency or  
26 hardship was presented which justifies an exemption from the procedures  
27 in subsection (4) of this section based on the judgment of such school  
28 board, and such acceptance shall not exceed the number of applications  
29 that will be accepted for the school year pursuant to subsection (2) or  
30 (3) of this section for such building.

31 Sec. 4. Section 79-2120, Revised Statutes Supplement, 2015, is

1 amended to read:

2           79-2120 On or before March 1, 2009, and February 1 of each year  
3 thereafter, for purposes of determining socioeconomic diversity of  
4 enrollment as defined in section subsection (3) of section 79-238 and  
5 sections 79-611 and 79-2110, the State Department of Education shall  
6 certify to each learning community and each member school district the  
7 average percentage of students qualifying for free or reduced-price  
8 lunches in each school building in each member school district and in the  
9 aggregate for all school buildings in the learning community based on the  
10 most current information available to the department on the immediately  
11 preceding January 1. For purposes of this section, the average percentage  
12 of students qualifying for free or reduced-price lunches in school  
13 buildings that provide free meals to all students pursuant to the  
14 community eligibility provision shall equal the identified student  
15 percentage calculated pursuant to the community eligibility provision.  
16 The State Board of Education may adopt and promulgate rules and  
17 regulations to carry out this section.

18           Sec. 5. Original sections 79-1003, 79-10,143, 79-2110, and 79-2120,  
19 Revised Statutes Supplement, 2015, are repealed.