

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 540**

Introduced by Stinner, 48.

Read first time January 18, 2017

Committee: Education

1 A BILL FOR AN ACT relating to the Tax Equity and Educational  
2 Opportunities Support Act; to amend sections 79-1003, 79-1005.01,  
3 79-1007.11, and 79-1009, Revised Statutes Cumulative Supplement,  
4 2016; to redefine and provide for a temporary aid adjustment factor;  
5 to change the calculation of formula need, allocated income tax  
6 funds, and net option funding; to harmonize provisions; to repeal  
7 the original sections; and to declare an emergency.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Revised Statutes Cumulative Supplement,  
2 2016, is 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, (b) for school fiscal years 2016-17 through  
15 2018-19, the difference of the general fund operating expenditures as  
16 calculated pursuant to subdivision (23) of this section increased by the  
17 cost growth factor calculated pursuant to section 79-1007.10, minus the  
18 transportation allowance, special receipts allowance, poverty allowance,  
19 limited English proficiency allowance, distance education and  
20 telecommunications allowance, elementary site allowance, summer school  
21 allowance, best practices allowance, and focus school and program  
22 allowance, and (c) for school fiscal year 2019-20 and each school fiscal  
23 year thereafter, the difference of the general fund operating  
24 expenditures as calculated pursuant to subdivision (23) of this section  
25 increased by the cost growth factor calculated pursuant to section  
26 79-1007.10, minus the transportation allowance, special receipts  
27 allowance, poverty allowance, limited English proficiency allowance,  
28 distance education and telecommunications allowance, elementary site  
29 allowance, summer school allowance, best practices allowance, community  
30 achievement plan allowance, and focus school and program allowance;

31 (2) Adjusted valuation means the assessed valuation of taxable

1 property of each local system in the state, adjusted pursuant to the  
2 adjustment factors described in section 79-1016. Adjusted valuation means  
3 the adjusted valuation for the property tax year ending during the school  
4 fiscal year immediately preceding the school fiscal year in which the aid  
5 based upon that value is to be paid. For purposes of determining the  
6 local effort rate yield pursuant to section 79-1015.01, adjusted  
7 valuation does not include the value of any property which a court, by a  
8 final judgment from which no appeal is taken, has declared to be  
9 nontaxable or exempt from taxation;

10 (3) Allocated income tax funds means the amount of assistance paid  
11 to a local system pursuant to section 79-1005.01 as adjusted, for school  
12 fiscal years prior to school fiscal year 2017-18, by the minimum levy  
13 adjustment pursuant to section 79-1008.02;

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

19 (5) Base fiscal year means the first school fiscal year following  
20 the school fiscal year in which the reorganization or unification  
21 occurred;

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

23 (7) Categorical funds means funds limited to a specific purpose by  
24 federal or state law, including, but not limited to, Title I funds, Title  
25 VI funds, federal vocational education funds, federal school lunch funds,  
26 Indian education funds, Head Start funds, and funds from the Education  
27 Innovation Fund;

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

31 (9) Converted contract means an expired contract that was in effect

1 for at least fifteen school years beginning prior to school year 2012-13  
2 for the education of students in a nonresident district in exchange for  
3 tuition from the resident district when the expiration of such contract  
4 results in the nonresident district educating students, who would have  
5 been covered by the contract if the contract were still in effect, as  
6 option students pursuant to the enrollment option program established in  
7 section 79-234;

8 (10) Converted contract option student means a student who will be  
9 an option student pursuant to the enrollment option program established  
10 in section 79-234 for the school fiscal year for which aid is being  
11 calculated and who would have been covered by a converted contract if the  
12 contract were still in effect and such school fiscal year is the first  
13 school fiscal year for which such contract is not in effect;

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

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

19 (13) Ensuing school fiscal year means the school fiscal year  
20 following the current school fiscal year;

21 (14) Equalization aid means the amount of assistance calculated to  
22 be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23,  
23 79-1007.25, 79-1008.01 to 79-1022, and 79-1022.02;

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

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

30 (17) Formula students means:

31 (a) For state aid certified pursuant to section 79-1022, the sum of

1 the product of fall membership from the school fiscal year immediately  
2 preceding the school fiscal year in which the aid is to be paid  
3 multiplied by the average ratio of average daily membership to fall  
4 membership for the second school fiscal year immediately preceding the  
5 school fiscal year in which the aid is to be paid and the prior two  
6 school fiscal years plus sixty percent of the qualified early childhood  
7 education fall membership plus tuitioned students from the school fiscal  
8 year immediately preceding the school fiscal year in which aid is to be  
9 paid minus the product of the number of students enrolled in kindergarten  
10 that is not full-day kindergarten from the fall membership multiplied by  
11 0.5; and

12 (b) For the final calculation of state aid pursuant to section  
13 79-1065, the sum of average daily membership plus sixty percent of the  
14 qualified early childhood education average daily membership plus  
15 tuitioned students minus the product of the number of students enrolled  
16 in kindergarten that is not full-day kindergarten from the average daily  
17 membership multiplied by 0.5 from the school fiscal year immediately  
18 preceding the school fiscal year in which aid was paid;

19 (18) Free lunch and free milk calculated students means, using the  
20 most recent data available on November 1 of the school fiscal year  
21 immediately preceding the school fiscal year in which aid is to be paid,

22 (a) for schools that did not provide free meals to all students pursuant  
23 to the community eligibility provision, students who individually  
24 qualified for free lunches or free milk pursuant to the federal Richard  
25 B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the  
26 federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts  
27 and sections existed on January 1, 2015, and rules and regulations  
28 adopted thereunder, plus (b) for schools that provided free meals to all  
29 students pursuant to the community eligibility provision, (i) for school  
30 fiscal year 2016-17, the product of the students who attended such school  
31 multiplied by the identified student percentage calculated pursuant to

1 such federal provision or (ii) for school fiscal year 2017-18 and each  
2 school fiscal year thereafter, the greater of the number of students in  
3 such school who individually qualified for free lunch or free milk using  
4 the most recent school fiscal year for which the school did not provide  
5 free meals to all students pursuant to the community eligibility  
6 provision or one hundred ten percent of the product of the students who  
7 qualified for free meals at such school pursuant to the community  
8 eligibility provision multiplied by the identified student percentage  
9 calculated pursuant to such federal provision, except that the free lunch  
10 and free milk students calculated for any school pursuant to subdivision  
11 (18)(b)(ii) of this section shall not exceed one hundred percent of the  
12 students qualified for free meals at such school pursuant to the  
13 community eligibility provision;

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

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

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

28 (22) General fund expenditures means all expenditures from the  
29 general fund;

30 (23) General fund operating expenditures means for state aid  
31 calculated for school fiscal years 2012-13 and each school fiscal year

1 thereafter, as reported on the annual financial report for the second  
2 school fiscal year immediately preceding the school fiscal year in which  
3 aid is to be paid, the total general fund expenditures minus (a) the  
4 amount of all receipts to the general fund, to the extent that such  
5 receipts are not included in local system formula resources, from early  
6 childhood education tuition, summer school tuition, educational entities  
7 as defined in section 79-1201.01 for providing distance education courses  
8 through the Educational Service Unit Coordinating Council to such  
9 educational entities, private foundations, individuals, associations,  
10 charitable organizations, the textbook loan program authorized by section  
11 79-734, federal impact aid, and levy override elections pursuant to  
12 section 77-3444, (b) the amount of expenditures for categorical funds,  
13 tuition paid, transportation fees paid to other districts, adult  
14 education, community services, redemption of the principal portion of  
15 general fund debt service, retirement incentive plans authorized by  
16 section 79-855, and staff development assistance authorized by section  
17 79-856, (c) the amount of any transfers from the general fund to any bond  
18 fund and transfers from other funds into the general fund, (d) any legal  
19 expenses in excess of fifteen-hundredths of one percent of the formula  
20 need for the school fiscal year in which the expenses occurred, (e)  
21 expenditures to pay for sums agreed to be paid by a school district to  
22 certificated employees in exchange for a voluntary termination occurring  
23 prior to July 1, 2009, occurring on or after the last day of the 2010-11  
24 school year and prior to the first day of the 2013-14 school year, or, to  
25 the extent that a district has demonstrated to the State Board of  
26 Education pursuant to section 79-1028.01 that the agreement will result  
27 in a net savings in salary and benefit costs to the school district over  
28 a five-year period, occurring on or after the first day of the 2013-14  
29 school year, (f)(i) expenditures to pay for employer contributions  
30 pursuant to subsection (2) of section 79-958 to the School Employees  
31 Retirement System of the State of Nebraska to the extent that such

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

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

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

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

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

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



1 addition, for the three immediately preceding school fiscal years if such  
2 difference is greater than zero;

3 (28) Local system means a learning community for purposes of  
4 calculation of state aid for each school fiscal year prior to school  
5 fiscal year 2017-18, a unified system, a Class VI district and the  
6 associated Class I districts, or a Class II, III, IV, or V district and  
7 any affiliated Class I districts or portions of Class I districts. The  
8 membership, expenditures, and resources of Class I districts that are  
9 affiliated with multiple high school districts will be attributed to  
10 local systems based on the percent of the Class I valuation that is  
11 affiliated with each high school district;

12 (29) Low-income child means (a) for school fiscal years prior to  
13 2016-17, a child under nineteen years of age living in a household having  
14 an annual adjusted gross income for the second calendar year preceding  
15 the beginning of the school fiscal year for which aid is being calculated  
16 equal to or less than the maximum household income that would allow a  
17 student from a family of four people to be a free lunch and free milk  
18 student during the school fiscal year immediately preceding the school  
19 fiscal year for which aid is being calculated and (b) for school fiscal  
20 year 2016-17 and each school fiscal year thereafter, a child under  
21 nineteen years of age living in a household having an annual adjusted  
22 gross income for the second calendar year preceding the beginning of the  
23 school fiscal year for which aid is being calculated equal to or less  
24 than the maximum household income pursuant to sections 9(b)(1) and 17(c)  
25 (4) of the Richard B. Russell National School Lunch Act, 42 U.S.C.  
26 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6)  
27 and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6)  
28 and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections  
29 existed on January 1, 2015, for a household of that size that would have  
30 allowed the child to meet the income qualifications for free meals during  
31 the school fiscal year immediately preceding the school fiscal year for

1 which aid is being calculated;

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

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

12 (32) Poverty students means (a) for school fiscal years prior to  
13 2016-17, the number of low-income students or the number of students who  
14 are free lunch and free milk students in a district plus the difference  
15 of the number of low-income students or the number of students who are  
16 free lunch and free milk students in a district, whichever is greater,  
17 minus the average number of poverty students for such district, prior to  
18 such addition, for the three immediately preceding school fiscal years if  
19 such difference is greater than zero and (b) for school fiscal year  
20 2016-17 and each school fiscal year thereafter, the unadjusted poverty  
21 students plus the difference of such unadjusted poverty students minus  
22 the average number of poverty students for such district, prior to such  
23 addition, for the three immediately preceding school fiscal years if such  
24 difference is greater than zero;

25 (33) Qualified early childhood education average daily membership  
26 means the product of the average daily membership for school fiscal year  
27 2006-07 and each school fiscal year thereafter of students who will be  
28 eligible to attend kindergarten the following school year and are  
29 enrolled in an early childhood education program approved by the  
30 department pursuant to section 79-1103 for such school district for such  
31 school year multiplied by the ratio of the actual instructional hours of

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

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

21 (35) Regular route transportation means the transportation of  
22 students on regularly scheduled daily routes to and from the attendance  
23 center;

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

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

28 (38) Sparse local system means a local system that is not a very  
29 sparse local system but which meets the following criteria:

30 (a)(i) Less than two students per square mile in the county in which  
31 each high school is located, based on the school district census, (ii)

1 less than one formula student per square mile in the local system, and  
2 (iii) more than ten miles between each high school attendance center and  
3 the next closest high school attendance center on paved roads;

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

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

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

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

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

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

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

28 (43) State support means all funds provided to districts by the  
29 State of Nebraska for the general fund support of elementary and  
30 secondary education;

31 (44) Statewide average basic funding per formula student means the

1 statewide total basic funding for all districts divided by the statewide  
2 total formula students for all districts;

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

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

8 (47) Temporary aid adjustment factor means, for school fiscal years  
9 2017-18 and 2018-19, an amount equal to XX percent of the preliminary  
10 formula need of each school district as determined pursuant to section  
11 79-1007.11 (a) for school fiscal years before school fiscal year 2007-08,  
12 one and one-fourth percent of the sum of the local system's  
13 transportation allowance, the local system's special receipts allowance,  
14 and the product of the local system's adjusted formula students  
15 multiplied by the average formula cost per student in the local system's  
16 cost grouping and (b) for school fiscal year 2007-08, one and one-fourth  
17 percent of the sum of the local system's transportation allowance,  
18 special receipts allowance, and distance education and telecommunications  
19 allowance and the product of the local system's adjusted formula students  
20 multiplied by the average formula cost per student in the local system's  
21 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 79-1005.01, Revised Statutes Cumulative Supplement,  
15 2016, is amended to read:

16 79-1005.01 (1) Not later than November 15 of each year, the Tax  
17 Commissioner shall certify to the department for the preceding tax year  
18 the income tax liability of resident individuals for each local system.

19 ~~(2)(a) (2)~~ For school fiscal years prior to 2017-18, one hundred two  
20 million two hundred eighty-nine thousand eight hundred seventeen dollars  
21 which is equal to the amount appropriated to the School District Income  
22 Tax Fund for distribution in school fiscal year 1992-93 shall be  
23 disbursed as option payments as determined under section 79-1009 and as  
24 allocated income tax funds as determined in this section and sections  
25 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in  
26 section 79-1008.02 for school fiscal years prior to school fiscal year  
27 2017-18. For school fiscal years prior to school fiscal year 2017-18,  
28 funds not distributed as allocated income tax funds due to minimum levy  
29 adjustments shall not increase the amount available to local systems for  
30 distribution as allocated income tax funds.

31 ~~(b) (3)~~ Using the data certified by the Tax Commissioner pursuant to

1 subsection (1) of this section, the department shall calculate the  
2 allocation percentage and each local system's allocated income tax funds.  
3 The allocation percentage shall be the amount stated in subsection (2)(a)  
4 ~~(2)~~ of this section minus the total amount paid for option students  
5 pursuant to section 79-1009, with the difference divided by the aggregate  
6 statewide income tax liability of all resident individuals certified  
7 pursuant to subsection (1) of this section. Each local system's allocated  
8 income tax funds shall be calculated by multiplying the allocation  
9 percentage times the local system's income tax liability certified  
10 pursuant to subsection (1) of this section.

11 (3) For school fiscal years 2017-18 and 2018-19, using the data  
12 certified by the Tax Commissioner pursuant to subsection (1) of this  
13 section, the department shall calculate the preliminary allocated income  
14 tax funds for each local system by multiplying such local system's income  
15 tax liability by two and twenty-three hundredths percent. The allocated  
16 income tax funds distributed to each local system for such school fiscal  
17 years shall equal the preliminary allocated income tax funds minus the  
18 difference of the temporary aid adjustment factor for all school  
19 districts in the local system minus the reduction in net option funding  
20 for all school districts in the local system due to the temporary aid  
21 adjustment factor, except that the allocated income tax funds shall not  
22 be less than zero for any local system.

23 (4) For school fiscal year 2019-20 ~~2017-18~~ and each school fiscal  
24 year thereafter, each local system's allocated income tax funds shall be  
25 calculated by multiplying the local system's income tax liability  
26 certified pursuant to subsection (1) of this section by two and twenty-  
27 three hundredths percent.

28 Sec. 3. Section 79-1007.11, Revised Statutes Cumulative Supplement,  
29 2016, is amended to read:

30 79-1007.11 (1) Except as otherwise provided in this section, for  
31 school fiscal years 2013-14 through 2015-16, each school district's

1 formula need shall equal the difference of the sum of the school  
2 district's basic funding, poverty allowance, limited English proficiency  
3 allowance, focus school and program allowance, summer school allowance,  
4 special receipts allowance, transportation allowance, elementary site  
5 allowance, instructional time allowance, teacher education allowance,  
6 distance education and telecommunications allowance, averaging  
7 adjustment, new learning community transportation adjustment, student  
8 growth adjustment, any positive student growth adjustment correction, and  
9 new school adjustment, minus the sum of the limited English proficiency  
10 allowance correction, poverty allowance correction, and any negative  
11 student growth adjustment correction.

12 (2) Except as otherwise provided in this section, for school fiscal  
13 year 2016-17, each school district's formula need shall equal the  
14 difference of the sum of the school district's basic funding, poverty  
15 allowance, limited English proficiency allowance, focus school and  
16 program allowance, summer school allowance, special receipts allowance,  
17 transportation allowance, elementary site allowance, best practices  
18 allowance, distance education and telecommunications allowance, averaging  
19 adjustment, new learning community transportation adjustment, student  
20 growth adjustment, any positive student growth adjustment correction, and  
21 new school adjustment, minus the sum of the limited English proficiency  
22 allowance correction, poverty allowance correction, and any negative  
23 student growth adjustment correction.

24 (3) Except as otherwise provided in this section, for school fiscal  
25 years 2017-18 and 2018-19, each school district's preliminary formula  
26 need shall equal the difference of the sum of the school district's basic  
27 funding, poverty allowance, poverty allowance adjustment, limited English  
28 proficiency allowance, focus school and program allowance, summer school  
29 allowance, special receipts allowance, transportation allowance,  
30 elementary site allowance, best practices allowance, distance education  
31 and telecommunications allowance, averaging adjustment, new community



1 achievement plan adjustment, student growth adjustment, any positive  
2 student growth adjustment correction, and new school adjustment minus the  
3 sum of the limited English proficiency allowance correction, poverty  
4 allowance correction, and any negative student growth adjustment  
5 correction. Each school district's formula need for such school fiscal  
6 year shall equal the preliminary formula need minus the temporary aid  
7 adjustment factor, except that the temporary aid adjustment factor shall  
8 not reduce formula need for any district by more than the sum of the  
9 preliminary allocated income tax calculated pursuant to section  
10 79-1005.01 plus the preliminary net option funding calculated pursuant to  
11 section 79-1009.

12 (4) Except as otherwise provided in this section, for school fiscal  
13 year 2019-20 and each school fiscal year thereafter, each school  
14 district's formula need shall equal the difference of the sum of the  
15 school district's basic funding, poverty allowance, limited English  
16 proficiency allowance, focus school and program allowance, summer school  
17 allowance, special receipts allowance, transportation allowance,  
18 elementary site allowance, best practices allowance, distance education  
19 and telecommunications allowance, community achievement plan allowance,  
20 averaging adjustment, new community achievement plan adjustment, student  
21 growth adjustment, any positive student growth adjustment correction, and  
22 new school adjustment minus the sum of the limited English proficiency  
23 allowance correction, poverty allowance correction, and any negative  
24 student growth adjustment correction.

25 (5) If the formula need calculated for a school district pursuant to  
26 subsections (1) through (4) of this section is less than one hundred  
27 percent of the formula need for such district for the school fiscal year  
28 immediately preceding the school fiscal year for which aid is being  
29 calculated, the formula need for such district shall equal one hundred  
30 percent of the formula need for such district for the school fiscal year  
31 immediately preceding the school fiscal year for which aid is being

1 calculated.

2 (6) If the formula need calculated for a school district pursuant to  
3 subsections (1) through (4) of this section is more than one hundred  
4 twelve percent of the formula need for such district for the school  
5 fiscal year immediately preceding the school fiscal year for which aid is  
6 being calculated, the formula need for such district shall equal one  
7 hundred twelve percent of the formula need for such district for the  
8 school fiscal year immediately preceding the school fiscal year for which  
9 aid is being calculated, except that the formula need shall not be  
10 reduced pursuant to this subsection for any district receiving a student  
11 growth adjustment for the school fiscal year for which aid is being  
12 calculated.

13 (7) For purposes of subsections (5) and (6) of this section, the  
14 formula need for the school fiscal year immediately preceding the school  
15 fiscal year for which aid is being calculated shall be the formula need  
16 used in the final calculation of aid pursuant to section 79-1065 and for  
17 districts that were affected by a reorganization with an effective date  
18 in the calendar year preceding the calendar year in which aid is  
19 certified for the school fiscal year for which aid is being calculated,  
20 the formula need for the school fiscal year immediately preceding the  
21 school fiscal year for which aid is being calculated shall be attributed  
22 to the affected school districts based on information provided to the  
23 department by the school districts or proportionally based on the  
24 adjusted valuation transferred if sufficient information has not been  
25 provided to the department.

26 Sec. 4. Section 79-1009, Revised Statutes Cumulative Supplement,  
27 2016, is amended to read:

28 79-1009 (1)(a) A district shall receive net option funding if (i)  
29 option students as defined in section 79-233 were actually enrolled in  
30 the school year immediately preceding the school year in which the aid is  
31 to be paid, (ii) option students as defined in such section will be

1 enrolled in the school year in which the aid is to be paid as converted  
2 contract option students, or (iii) for the calculation of aid for school  
3 fiscal year 2017-18 for school districts that are members of a learning  
4 community, open enrollment students were actually enrolled for school  
5 year 2016-17 pursuant to section 79-2110.

6 (b) The determination of the net number of option students shall be  
7 based on (i) the number of students enrolled in the district as option  
8 students and the number of students residing in the district but enrolled  
9 in another district as option students as of the day of the fall  
10 membership count pursuant to section 79-528, for the school fiscal year  
11 immediately preceding the school fiscal year in which aid is to be paid,  
12 (ii) the number of option students that will be enrolled in the district  
13 or enrolled in another district as converted contract option students for  
14 the fiscal year in which the aid is to be paid, and (iii) for the  
15 calculation of aid for school fiscal year 2017-18 for school districts  
16 that are members of a learning community, the number of students enrolled  
17 in the district as open enrollment students and the number of students  
18 residing in the district but enrolled in another district as open  
19 enrollment students as of the day of the fall membership count pursuant  
20 to section 79-528 for school fiscal year 2016-17.

21 (c) Except as otherwise provided in this subsection, net number of  
22 option students means the difference of the number of option students  
23 enrolled in the district minus the number of students residing in the  
24 district but enrolled in another district as option students. For  
25 purposes of the calculation of aid for school fiscal year 2017-18 for  
26 school districts that are members of a learning community, net number of  
27 option students means the difference of the number of students residing  
28 in another school district who are option students or open enrollment  
29 students enrolled in the district minus the number of students residing  
30 in the district but enrolled in another district as option students or  
31 open enrollment students.

1           (2) Except as provided in subsection (3) For purposes of this  
2 section, net option funding shall be the sum of the product of the net  
3 number of option students multiplied by the statewide average basic  
4 funding per formula student.~~(3)~~ A district's net option funding shall be  
5 zero if the calculation produces a negative result.

6           (3) For school fiscal years 2017-18 and 2018-19, the department  
7 shall calculate the preliminary net option funding for each school  
8 district by multiplying the net number of option students by the  
9 statewide average basic funding per formula student. The net option  
10 funding to be distributed to each school district for such school fiscal  
11 years shall equal the preliminary net option funding minus the temporary  
12 aid adjustment factor, except that the net option funding shall not be  
13 less than zero for any school district.

14           (4) Payments made under this section for school fiscal years prior  
15 to school fiscal year 2017-18 shall be made from the funds to be  
16 disbursed under section 79-1005.01.

17           (5) Such payments shall go directly to the option school district  
18 but shall count as a formula resource for the local system.

19           Sec. 5. Original sections 79-1003, 79-1005.01, 79-1007.11, and  
20 79-1009, Revised Statutes Cumulative Supplement, 2016, are repealed.

21           Sec. 6. Since an emergency exists, this act takes effect when  
22 passed and approved according to law.