

LEGISLATIVE BILL 898  
Passed over the Governor's veto  
April 11, 2002.

Introduced by Kristensen, 37

AN ACT relating to schools; to amend sections 79-1005.01, 79-1007.02, 79-1017.01, 79-1022, and 79-1031.01, Revised Statutes Supplement, 2000, and sections 77-3442, 79-1001, 79-1003, 79-1007.01, 79-1008.01, 79-1008.02, and 79-1009, Revised Statutes Supplement, 2001; to provide an exclusion to the property tax levy for certain schools; to change provisions relating to state aid to schools; to define and redefine terms; to change provisions relating to option funding as prescribed; to provide for a temporary aid adjustment factor and changes in certification of aid; 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 77-3442, Revised Statutes Supplement, 2001, is amended to read:

77-3442. (1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivision (2)(b) of this section, school districts and multiple-district school systems may levy a maximum levy of (i) one dollar and ten cents per one hundred dollars of taxable valuation of property subject to the levy until fiscal year 2001-02 and (ii) one dollar per one hundred dollars of taxable valuation of property subject to the levy for fiscal year 2001-02 and all subsequent fiscal years. Excluded from this limitation are amounts levied to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment and amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(b) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(c) Beginning with school fiscal year 2002-03 through school fiscal year 2004-05, school districts and multiple-district school systems may, upon a three-fourths majority vote of the school board of the school district, the board of the unified system, or the school board of the high school district of the multiple-district school system that is not a unified system, exceed the maximum levy prescribed by subdivision (2)(a) of this section in an amount equal to the net difference between the amount of state aid that would have been provided under the Tax Equity and Educational Opportunities Support Act without the changes made by Legislative Bill 898, Ninety-seventh Legislature, Second Session, 2002, for the ensuing school fiscal year for the school district or multiple-district school system and the amount provided under the act as amended by Legislative Bill 898, Ninety-seventh Legislature, Second Session, 2002. The State Department of Education shall certify to the school districts and multiple-district school systems the amount by which the maximum levy may be exceeded pursuant to subdivision (2)(c) of this section on or before May 15, 2002, for school fiscal year 2002-03, February 15, 2003, for school fiscal year 2003-04, and February 15, 2004, for school fiscal year 2004-05.

(3) Community colleges may levy a maximum levy on each one hundred dollars of taxable property subject to the levy of (a) eight cents for fiscal year 1998-99 and fiscal year 1999-2000 and (b) seven cents for fiscal year 2000-01 and each fiscal year thereafter.

(4) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(5) Educational service units may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6) (a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated.

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Property tax levies for judgments obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

(11) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(12) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under

section 77-3444.

(13) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

Sec. 2. Section 79-1001, Revised Statutes Supplement, 2001, is amended to read:

79-1001. Sections 79-1001 to 79-1033 and sections 5 and 13 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 3. Section 79-1003, Revised Statutes Supplement, 2001, is amended to read:

79-1003. For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means general fund operating expenditures as calculated pursuant to subdivision (23) of this section minus the transportation allowance and minus the special receipts allowance;

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

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01 or section 5 of this act as adjusted by the minimum levy adjustment pursuant to section 79-1008.02;

(4) Average daily attendance of a student who resides on Indian land means average daily attendance of a student who resides on Indian land from the most recent data available on November 1 preceding the school fiscal year in which aid is to be paid;

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

(6) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

(7) Board means the school board of each school district;

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

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

(10) Converted contract means an expired contract that was in effect for at least fifteen years for the education of students in a nonresident district in exchange for tuition from the resident district when the expiration of such contract results in the nonresident district educating students who would have been covered by the contract if the contract were still in effect as option students pursuant to the enrollment option program established in section 79-234;

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

(12) Department means the State Department of Education;

(13) District means any Class I, II, III, IV, V, or VI school district;

(14) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(15) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1008.01 to 79-1022 and section 13 of this act;

(16) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall

school district membership reports for each district pursuant to section 79-528;

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

(18) Formula students means (a) for state aid certified pursuant to section 79-1022, the sum of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid and the prior two school fiscal years, and tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and (b) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership and tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid was paid;

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

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

(21) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023, the calculation of Class I total allowable general fund budget of expenditures minus the special education budget of expenditures pursuant to section 79-1083.03, and the calculation pursuant to subdivision (2) of section 79-1027.01, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district subject to the approval of the department;

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

(23) General fund operating expenditures means the total general fund expenditures minus categorical funds, tuition paid, transportation fees paid to other districts, adult education, summer school, community services, redemption of the principal portion of general fund debt service, retirement incentive plans, staff development assistance, and transfers from other funds into the general fund for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

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

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

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

(27) Limited English proficiency student means a student with limited English proficiency from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid;

(28) Local system means a Class VI district and the associated Class I districts or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

(29) Low-income child means a child under nineteen years of age living in a household having an annual adjusted gross income of fifteen thousand dollars or less for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated;

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

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

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

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

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

(35) Special grant funds means the budgeted receipts for grants, including, but not limited to, Title I funds, Title VI funds, funds from the Education Innovation Fund, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

(36) Special receipts allowance means the amount of special education, state ward, and accelerated or differentiated curriculum program receipts included in local system formula resources under subdivisions (7), (8), (16), and (17) of section 79-1018.01;

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

(38) State board means the State Board of Education;

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

(40) Temporary aid adjustment factor means one and one-fourth percent of 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;

(41) Transportation allowance means the lesser of (a) each local system's general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 79-611 in the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, but not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures, or (b) the number of miles traveled in the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid by vehicles owned, leased, or contracted by the district or the districts in the local system for the purpose of regular route transportation multiplied by four hundred percent of the mileage rate established by the Department of Administrative Services pursuant to section 81-1176 as of January 1 of the most recently available complete data year added to in lieu of transportation expenditures pursuant to section 79-611 from the same data year;

~~(41)~~ (42) Tuition receipts from converted contracts means tuition receipts received by a district from another district in the most recently available complete data year pursuant to a converted contract prior to the expiration of the contract; and

~~(42)~~ (43) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency.

Sec. 4. Section 79-1005.01, Revised Statutes Supplement, 2000, is amended to read:

79-1005.01. For state aid calculated for all school fiscal year 1998-99 and each school fiscal year thereafter years except school fiscal years 2002-03, 2003-04, and 2004-05:

(1) An amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 shall be disbursed as option payments as determined under section 79-1009 and as allocated income tax funds as determined in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in section 79-1008.02. Funds not distributed as allocated income tax funds due to minimum levy adjustments shall not increase the amount available to local systems for distribution as allocated income tax funds;

(2) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system. The 1996 income tax liability of resident individuals of Class I districts that are affiliated with multiple high school districts shall be divided between local systems based on the percentage of the Class I district's valuation affiliated with each high school district; and

(3) Using the data certified by the Tax Commissioner pursuant to subdivision (2) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall be an amount equal to the amount appropriated to the School

District Income Tax Fund for distribution in school fiscal year 1992-93 minus the total amount paid for option students pursuant to section 79-1009 with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subdivision (2) of this section. Each local system's allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subdivision (2) of this section.

Sec. 5. For state aid calculated for school fiscal years 2002-03, 2003-04, and 2004-05:

(1) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system. The 1996 income tax liability of resident individuals of Class I districts that are affiliated with multiple high school districts shall be divided between local systems based on the percentage of the Class I district's valuation affiliated with each high school district; and

(2) Using the data certified by the Tax Commissioner pursuant to subdivision (1) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall be an amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 minus the total amount paid for option students pursuant to section 79-1009 with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subdivision (1) of this section. Each local system's preliminary allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subdivision (1) of this section. Each local system's allocated income tax funds shall be calculated by subtracting the difference of the temporary aid adjustment factor minus the reduction in net option funding due to the temporary aid adjustment factor, from the preliminary allocated income tax funds, except that a local system's allocated income tax funds shall not be less than zero.

Sec. 6. Section 79-1007.01, Revised Statutes Supplement, 2001, is amended to read:

79-1007.01. (1) The adjusted formula students for each local system shall be calculated by:

(a) Multiplying the formula students in each grade range by the corresponding weighting factors to calculate the weighted formula students for each grade range as follows:

- (i) The weighting factor for kindergarten is five-tenths;
- (ii) The weighting factor for grades one through six, including full-day kindergarten, is one;
- (iii) The weighting factor for grades seven and eight is one and two-tenths; and
- (iv) The weighting factor for grades nine through twelve is one and four-tenths;

(b) Adding the weighted formula students for each grade range to calculate the weighted formula students for the local system; and

(c) Adjusting the weighted formula students by adding the following demographic factors:

(i) The Indian-land factor shall equal 0.25 times the average daily attendance of students who reside on Indian land as reported by the United States Department of Education in calculating the local system's payment pursuant to 20 U.S.C. 7701 et seq., as such sections existed on ~~May 8, 2001~~ the effective date of this act;

(ii) The limited English proficiency factor shall equal 0.25 times the students in the local system with limited English proficiency as defined under 20 U.S.C. 7601, as such section existed on ~~May 8, 2001~~ the effective date of this act;

(iii) The department shall calculate the number of formula students to whom the poverty factor shall apply. The department shall calculate a ratio of the formula students to the total children under nineteen years of age residing in the local system and shall apply the ratio to the low-income children within the local system, in order to determine the number of low-income students within such local system. The number of children under nineteen years of age used in this calculation shall be derived from income tax information. The poverty factor shall equal the number of low-income students or the formula students qualified for free lunches or free milk under United States Department of Agriculture child nutrition programs, whichever is greater, multiplied by the following factors:

(A) 0 for the qualified formula students comprising the first five percent of the formula students in the local system;

(B) 0.05 for the qualified formula students comprising more than five percent and not more than ten percent of the formula students in the local system;

(C) 0.10 for the qualified formula students comprising more than ten percent and not more than fifteen percent of the formula students in the local system;

(D) 0.15 for the qualified formula students comprising more than fifteen percent and not more than twenty percent of the formula students in the local system;

(E) 0.20 for the qualified formula students comprising more than twenty percent and not more than twenty-five percent of the formula students in the local system;

(F) 0.25 for the qualified formula students comprising more than twenty-five percent and not more than thirty percent of the formula students in the local system; and

(G) 0.30 for the qualified formula students comprising more than thirty percent of the formula students in the local system; and

(iv) The extreme remoteness factor shall equal 0.125 times the formula students in the local system for each local system that has fewer than two hundred formula students, more than six hundred square miles in the local system, less than three-tenths formula student per square mile in the local system, and more than twenty-five miles between the high school attendance center and the next closest high school attendance center on paved roads.

(2) The total adjusted formula students for each local system shall equal the weighted formula students plus the demographic factors, except that (a) for local systems qualifying for the extreme remoteness factor, the total adjusted formula students shall be greater than or equal to one hundred fifty adjusted formula students, (b) the total adjusted formula students for a local system shall not include the extreme remoteness factor or any adjustment to the adjusted formula students resulting from qualification for the extreme remoteness factor for the calculation of the average formula cost per student in each cost grouping pursuant to subdivision (2) of section 79-1007.02, and (c) the total adjusted formula students for a local system shall include the extreme remoteness factor and any adjustment to the adjusted formula students resulting from qualification for the extreme remoteness factor for the calculation of the local system's formula need pursuant to subdivision (3) or (4) of section 79-1007.02.

Sec. 7. Section 79-1007.02, Revised Statutes Supplement, 2000, 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) 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 total adjusted formula students for all local systems in the cost grouping. 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 subsection (2) of section 79-1007.01. 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. The cost growth factor for each cost grouping is equal to the sum of: (a) One; plus (b) the product of two times the ratio of the difference between the formula students attributable to the cost grouping without weighting or adjustment pursuant to section 79-1007.01 and the average daily membership attributable to the cost grouping for the most recently available complete data year divided by the average daily membership attributable to the cost grouping for the most recently available complete data year, except that the ratio shall not be less than zero; plus (c) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (d) 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 (e) 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 (f) 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; and

(3) ~~Each~~ For all school fiscal years except school fiscal years 2002-03, 2003-04, or 2004-05, each local system's formula need will be equal to the local system's transportation allowance plus the local system's special receipts allowance plus 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 subsection (2) of section 79-1007.01; and

(4) For school fiscal years 2002-03, 2003-04, or 2004-05, 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 subsection (2) of section 79-1007.01.

Sec. 8. Section 79-1008.01, Revised Statutes Supplement, 2001, is amended to read:

79-1008.01. (1) Except as provided in subsection (2) of this section and sections 79-1008.02 to 79-1010, each local system shall receive equalization aid in the amount that the total formula need of each local system, as determined pursuant to sections 79-1007.01 and 79-1007.02, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1018.01.

(2) Except as provided in section 79-1008.02, a local system shall

not receive state aid for any school fiscal year, except school fiscal years 2002-03, 2003-04, and 2004-05, which is less than an amount equal to the difference of eighty-five percent of the amount of aid certified in the preceding school fiscal year minus an amount equal to any increase in the adjusted valuation between the adjusted valuation used for the certification of aid in the preceding school fiscal year and the adjusted valuation used for the aid being calculated multiplied by the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444.

(3) Except as provided in section 79-1008.02, a local system shall not receive state aid for school fiscal years 2002-03, 2003-04, or 2004-05 which is less than an amount equal to the difference of eighty-three and three-fourths percent of the amount of aid certified in the preceding school fiscal year minus an amount equal to any increase in the adjusted valuation between the adjusted valuation used for the certification of aid in the preceding school fiscal year and the adjusted valuation used for the aid being calculated multiplied by the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444.

(4) Except as provided in subsection (2) or (3) of this section, no local system may receive equalization aid such that, when total aid is added to a levy of one dollar for state aid to be distributed in school fiscal years 1998-99 and 1999-00 or of ninety cents for state aid to be distributed in school fiscal year 2000-01 and each school fiscal year thereafter, multiplied by the local system's adjusted valuation divided by one hundred, would result in total local system revenue from state aid plus property tax receipts which exceeds the total of:

(a) State aid plus The sum of state aid, receipts from other school districts related to annexation, and property tax receipts received by the local system during the preceding school fiscal year multiplied by the total of (i) 1.01 plus (ii) the applicable allowable growth rate for the local system calculated pursuant to section 79-1026 as determined for the school fiscal year immediately preceding the school fiscal year when aid is to be distributed plus (iii) the percentage growth in formula students from the certification of state aid for the immediately preceding school fiscal year to the formula students for the certification of state aid for the current school fiscal year, except that the percentage growth shall not be less than zero;

(b) Unused budget authority authorized pursuant to section 79-1030;

(c) The difference between the other actual receipts included in local system formula resources for the certification of state aid in the preceding school fiscal year and other actual receipts included in local system formula resources for the certification of state aid for the current school fiscal year, except that such difference shall not be less than zero; and

(d) The absolute value of any negative prior year adjustment pursuant to section 79-1065.

For local systems that have reorganized, state aid, property tax receipts, and number of formula students shall be attributed based on valuation. The revenue from property tax receipts shall be calculated by multiplying the reported general fund common levy by the assessed valuation subject to the levy divided by one hundred.

~~(4) The~~ (5) For all school fiscal years except school fiscal years 2002-03, 2003-04, and 2004-05, the aid that is not distributed through equalization based on subsection ~~(3)~~ (4) of this section shall be distributed through this subsection. Local systems qualify for distribution under this subsection if they have nine hundred or less formula students and adjusted general fund operating expenditures per formula student less than the average for all local systems with nine hundred or less formula students. The aid shall be distributed proportionally to qualifying districts based on the dollar amount each local system's calculated state aid plus the product of a levy of one dollar and ten cents for school fiscal years 1998-99 and 1999-00 and of one dollar for school fiscal year 2000-01 and each school fiscal year thereafter multiplied by the assessed valuation divided by one hundred is below ninety percent of state aid plus property tax receipts received by the local system during the preceding school fiscal year. No system shall receive aid pursuant to this subsection such that the calculated state aid plus the product of a levy of one dollar and ten cents for school fiscal years 1998-99 and 1999-00 and of one dollar for school fiscal year 2000-01 and each school fiscal year thereafter multiplied by the assessed valuation divided by one hundred is ninety percent or more of state aid plus property tax receipts received by the local system during the preceding school fiscal year. Any aid available for distribution pursuant to this subsection that is not distributed

pursuant to this subsection shall be distributed as equalization aid.

(6) For school fiscal years 2002-03, 2003-04, and 2004-05, the aid that is not distributed through equalization based on subsection (3) of this section shall be distributed through this subsection. Local systems qualify for distribution under this subsection if they have nine hundred or less formula students and adjusted general fund operating expenditures per formula student less than the average for all local systems with nine hundred or less formula students. The aid shall be distributed proportionally to qualifying districts based on the dollar amount each local system's calculated state aid plus the product of a levy of one dollar multiplied by the assessed valuation divided by one hundred is below eighty-eight and three-fourths percent of state aid plus property tax receipts received by the local system during the preceding school fiscal year. No system shall receive aid pursuant to this subsection such that the calculated state aid plus the product of a levy of one dollar multiplied by the assessed valuation divided by one hundred is eighty-eight and three-fourths percent or more of state aid plus property tax receipts received by the local system during the preceding school fiscal year. Any aid available for distribution pursuant to this subsection that is not distributed pursuant to this subsection shall be distributed as equalization aid.

Sec. 9. Section 79-1008.02, Revised Statutes Supplement, 2001, is amended to read:

79-1008.02. A minimum levy adjustment shall be calculated and applied to any local system that has a general fund common levy in the calendar year in which aid is certified that is less than ninety percent of the maximum levy allowed pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444. To calculate the minimum levy adjustment, the department shall subtract the local system general fund common levy in the calendar year when aid is certified from ninety percent of the maximum levy allowed pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444 and multiply the result by the local system's adjusted valuation divided by one hundred. The minimum levy adjustment shall be added to the formula resources of the local system for the determination of equalization aid pursuant to section 79-1008.01. If the minimum levy adjustment is greater than or equal to the allocated income tax funds calculated pursuant to section 79-1005.01 or section 5 of this act, the local system shall not receive allocated income tax funds. If the minimum levy adjustment is less than the allocated income tax funds calculated pursuant to section 79-1005.01 or section 5 of this act, the local system shall receive allocated income tax funds in the amount of the difference between the allocated income tax funds calculated pursuant to section 79-1005.01 or section 5 of this act and the minimum levy adjustment.

Sec. 10. Section 79-1009, Revised Statutes Supplement, 2001, is amended to read:

79-1009. (1) A district shall receive net option funding if option students as defined in section 79-233 (a) were actually enrolled in the school year immediately preceding the school year in which the aid is to be paid or (b) will be enrolled in the school year in which the aid is to be paid as converted contract option students.

(2) For purposes of this section: (a) ~~Net~~ For all school fiscal years except school fiscal years 2002-03, 2003-04, and 2004-05, net option funding means the sum of the products of the net number of option students in each grade range multiplied by the statewide average cost grouping cost per student multiplied by the weighting factor for the corresponding grade range pursuant to section 79-1007.01; (b) for school fiscal years 2002-03, 2003-04, and 2004-05, net option funding shall be calculated by subtracting the temporary aid adjustment factor from the sum of the products of the net number of option students in each grade range multiplied by the statewide average cost grouping cost per student multiplied by the weighting factor for the corresponding grade range pursuant to section 79-1007.01, except that a local system's net option funding shall not be less than zero; and ~~(b)~~ (c) net number of option students means the number of option students actually enrolled in a grade range in the current data year minus the number of students residing in the district but enrolled in another district in the same grade range in the current data year as option students as defined in section 79-233. A district's net option funding shall be zero if the calculation produces a negative result.

(3) The determination of the net number of option students shall be based on (a) the number of option students enrolled in the district or enrolled in another district as of the day of the fall membership count pursuant to section 79-528, for the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and (b) the number of

option students that will be enrolled in the district or enrolled in another district as converted contract option students for the school fiscal year in which the aid is to be paid. Payments made under this section shall be made from the funds to be disbursed under section 79-1005.01 or section 5 of this act.

(4) Payments made pursuant to this section shall go directly to the option school district but shall count as a formula resource for the local system.

Sec. 11. Section 79-1017.01, Revised Statutes Supplement, 2000, is amended to read:

79-1017.01. ~~For school year 1998-99 and each school year thereafter, local~~ Local system formula resources ~~shall include~~ includes allocated income tax funds determined for each such district pursuant to the provisions of section 79-1005.01 or section 5 of this act and adjustments pursuant to section 79-1008.02.

Sec. 12. Section 79-1022, Revised Statutes Supplement, 2000, is amended to read:

79-1022. (1) On or before ~~April 1, 1999~~ May 1, 2002, 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, and each district. The amount to be distributed to each district 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. On or before ~~April 1, 1999~~ May 1, 2002, 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.

(2) Except as provided in subsection (6) of section 79-1016, 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. Such certified state aid amounts 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.

Sec. 13. Notwithstanding any other provision of law, the certification of state aid pursuant to section 79-1022 to be paid to school districts during school year 2002-03 is null and void. State aid to be paid during such school year and the certifications pursuant to section 79-1022 shall be recertified on or before May 1, 2002, using data sources as they existed on February 1, 2002.

Sec. 14. Section 79-1031.01, Revised Statutes Supplement, 2000, 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 ~~April 1, 1999~~ May 1, 2002, 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. 15. Original sections 79-1005.01, 79-1007.02, 79-1017.01, 79-1022, and 79-1031.01, Revised Statutes Supplement, 2000, and sections 77-3442, 79-1001, 79-1003, 79-1007.01, 79-1008.01, 79-1008.02, and 79-1009, Revised Statutes Supplement, 2001, are repealed.

Sec. 16. Since an emergency exists, this act takes effect when passed and approved according to law.