

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1049

Introduced by Harr, 8.

Read first time January 20, 2016

Committee:

- 1 A BILL FOR AN ACT relating to the Tax Equity and Educational
- 2 Opportunities Support Act; to amend section 79-1003, Revised
- 3 Statutes Supplement, 2015; to provide for aid to virtual schools; to
- 4 define and redefine terms; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Revised Statutes Supplement, 2015, is
2 amended to read:

3 79-1003 For purposes of the Tax Equity and Educational Opportunities
4 Support Act:

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

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

1 nontaxable or exempt from taxation;

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

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

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

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

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

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

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

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

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

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

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

14 (14) Equalization aid means the amount of assistance calculated to
15 be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23,
16 79-1007.25, 79-1008.01 to 79-1022, 79-1022.02, 79-1028.02, and
17 79-1028.04;

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

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

24 (17) Formula students means:

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

1 education fall membership plus tuitioned students from the school fiscal
2 year immediately preceding the school fiscal year in which aid is to be
3 paid minus the product of the number of students enrolled in kindergarten
4 that is not full-day kindergarten from the fall membership multiplied by
5 0.5; and

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

13 (18) Free lunch and free milk calculated student means, for school
14 fiscal year 2016-17 and each school fiscal year thereafter, using the
15 most recent data available on November 1 of the school fiscal year
16 immediately preceding the school fiscal year in which aid is to be paid,

17 (a) a student who qualified for free lunches or free milk and attended a
18 school that uses information collected from parents and guardians
19 pursuant to section 79-10,143 to determine such qualifications pursuant
20 to the federal Richard B. Russell National School Lunch Act, 42 U.S.C.
21 1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. 1771
22 et seq., as such acts and sections existed on January 1, 2015, and rules
23 and regulations adopted thereunder, plus (b) the product of the students
24 who attend a school that provides free meals to all students pursuant to
25 the community eligibility provision multiplied by the identified student
26 percentage calculated pursuant to such federal provision;

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

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

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

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

12 (23) General fund operating expenditures means for state aid
13 calculated for school fiscal years 2012-13 and each school fiscal year
14 thereafter, as reported on the annual financial report for the second
15 school fiscal year immediately preceding the school fiscal year in which
16 aid is to be paid, the total general fund expenditures minus (a) the
17 amount of all receipts to the general fund, to the extent that such
18 receipts are not included in local system formula resources, from early
19 childhood education tuition, summer school tuition, educational entities
20 as defined in section 79-1201.01 for providing distance education courses
21 through the Educational Service Unit Coordinating Council to such
22 educational entities, private foundations, individuals, associations,
23 charitable organizations, the textbook loan program authorized by section
24 79-734, federal impact aid, and levy override elections pursuant to
25 section 77-3444, (b) the amount of expenditures for categorical funds,
26 tuition paid, transportation fees paid to other districts, adult
27 education, community services, redemption of the principal portion of
28 general fund debt service, retirement incentive plans authorized by
29 section 79-855, and staff development assistance authorized by section
30 79-856, (c) the amount of any transfers from the general fund to any bond
31 fund and transfers from other funds into the general fund, (d) any legal

1 expenses in excess of fifteen-hundredths of one percent of the formula
2 need for the school fiscal year in which the expenses occurred, (e)
3 expenditures to pay for sums agreed to be paid by a school district to
4 certificated employees in exchange for a voluntary termination occurring
5 prior to July 1, 2009, occurring on or after the last day of the 2010-11
6 school year and prior to the first day of the 2013-14 school year, or, to
7 the extent that a district has demonstrated to the State Board of
8 Education pursuant to section 79-1028.01 that the agreement will result
9 in a net savings in salary and benefit costs to the school district over
10 a five-year period, occurring on or after the first day of the 2013-14
11 school year, (f)(i) expenditures to pay for employer contributions
12 pursuant to subsection (2) of section 79-958 to the School Employees
13 Retirement System of the State of Nebraska to the extent that such
14 expenditures exceed the employer contributions under such subsection that
15 would have been made at a contribution rate of seven and thirty-five
16 hundredths percent or (ii) expenditures to pay for school district
17 contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to
18 the retirement system established pursuant to the Class V School
19 Employees Retirement Act to the extent that such expenditures exceed the
20 school district contributions under such subdivision that would have been
21 made at a contribution rate of seven and thirty-seven hundredths percent,
22 and (g) any amounts paid by the district for lobbyist fees and expenses
23 reported to the Clerk of the Legislature pursuant to section 49-1483.

24 For purposes of this subdivision (23) of this section, receipts from
25 levy override elections shall equal ninety-nine percent of the difference
26 of the total general fund levy minus a levy of one dollar and five cents
27 per one hundred dollars of taxable valuation multiplied by the assessed
28 valuation for school districts that have voted pursuant to section
29 77-3444 to override the maximum levy provided pursuant to section
30 77-3442;

31 (24) High school district means a school district providing

1 instruction in at least grades nine through twelve;

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

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

8 (27) Limited English proficiency students means the number of
9 students with limited English proficiency in a district from the most
10 recent data available on November 1 of the school fiscal year preceding
11 the school fiscal year in which aid is to be paid plus the difference of
12 such students with limited English proficiency minus the average number
13 of limited English proficiency students for such district, prior to such
14 addition, for the three immediately preceding school fiscal years if such
15 difference is greater than zero;

16 (28) Local system means a learning community for purposes of
17 calculation of state aid for the second full school fiscal year after
18 becoming a learning community and each school fiscal year thereafter, a
19 unified system, a Class VI district and the associated Class I districts,
20 or a Class II, III, IV, or V district and any affiliated Class I
21 districts or portions of Class I districts. The membership, expenditures,
22 and resources of Class I districts that are affiliated with multiple high
23 school districts will be attributed to local systems based on the percent
24 of the Class I valuation that is affiliated with each high school
25 district;

26 (29) Low-income child means (a) for school fiscal years prior to
27 2016-17, a child under nineteen years of age living in a household having
28 an annual adjusted gross income for the second calendar year preceding
29 the beginning of the school fiscal year for which aid is being calculated
30 equal to or less than the maximum household income that would allow a
31 student from a family of four people to be a free lunch and free milk

1 student during the school fiscal year immediately preceding the school
2 fiscal year for which aid is being calculated and (b) for school fiscal
3 year 2016-17 and each school fiscal year thereafter, a child under
4 nineteen years of age living in a household having an annual adjusted
5 gross income for the second calendar year preceding the beginning of the
6 school fiscal year for which aid is being calculated equal to or less
7 than the maximum household income pursuant to sections 9(b)(1) and 17(c)
8 (4) of the Richard B. Russell National School Lunch Act, 42 U.S.C.
9 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6)
10 and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6)
11 and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections
12 existed on January 1, 2015, for a household of that size that would have
13 allowed the child to meet the income qualifications for free meals during
14 the school fiscal year immediately preceding the school fiscal year for
15 which aid is being calculated;

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

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

26 (32) Poverty students means (a) for school fiscal years prior to
27 2016-17, the number of low-income students or the number of students who
28 are free lunch and free milk students in a district plus the difference
29 of the number of low-income students or the number of students who are
30 free lunch and free milk students in a district, whichever is greater,
31 minus the average number of poverty students for such district, prior to

1 such addition, for the three immediately preceding school fiscal years if
2 such difference is greater than zero and (b) for school fiscal year
3 2016-17 and each school fiscal year thereafter, the unadjusted poverty
4 students plus the difference of such unadjusted poverty students minus
5 the average number of poverty students for such district, prior to such
6 addition, for the three immediately preceding school fiscal years if such
7 difference is greater than zero;

8 (33) Qualified early childhood education average daily membership
9 means the product of the average daily membership for school fiscal year
10 2006-07 and each school fiscal year thereafter of students who will be
11 eligible to attend kindergarten the following school year and are
12 enrolled in an early childhood education program approved by the
13 department pursuant to section 79-1103 for such school district for such
14 school year multiplied by the ratio of the actual instructional hours of
15 the program divided by one thousand thirty-two if: (a) The program is
16 receiving a grant pursuant to such section for the third year; (b) the
17 program has already received grants pursuant to such section for three
18 years; or (c) the program has been approved pursuant to subsection (5) of
19 section 79-1103 for such school year and the two preceding school years,
20 including any such students in portions of any of such programs receiving
21 an expansion grant;

22 (34) Qualified early childhood education fall membership means the
23 product of membership on the last Friday in September 2006 and each year
24 thereafter of students who will be eligible to attend kindergarten the
25 following school year and are enrolled in an early childhood education
26 program approved by the department pursuant to section 79-1103 for such
27 school district for such school year multiplied by the ratio of the
28 planned instructional hours of the program divided by one thousand
29 thirty-two if: (a) The program is receiving a grant pursuant to such
30 section for the third year; (b) the program has already received grants
31 pursuant to such section for three years; or (c) the program has been

1 approved pursuant to subsection (5) of section 79-1103 for such school
2 year and the two preceding school years, including any such students in
3 portions of any of such programs receiving an expansion grant;

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

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

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

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

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

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

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

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

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

1 (40) Special grant funds means the budgeted receipts for grants,
2 including, but not limited to, categorical funds, reimbursements for
3 wards of the court, short-term borrowings including, but not limited to,
4 registered warrants and tax anticipation notes, interfund loans,
5 insurance settlements, and reimbursements to county government for
6 previous overpayment. The state board shall approve a listing of grants
7 that qualify as special grant funds;

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

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

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

14 (44) Statewide average basic funding per formula student means the
15 statewide total basic funding for all districts divided by the statewide
16 total formula students for all districts;

17 (45) Statewide average general fund operating expenditures per
18 formula student means the statewide total general fund operating
19 expenditures for all districts divided by the statewide total formula
20 students for all districts;

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

22 (47) Temporary aid adjustment factor means (a) for school fiscal
23 years before school fiscal year 2007-08, one and one-fourth percent of
24 the sum of the local system's transportation allowance, the local
25 system's special receipts allowance, and the product of the local
26 system's adjusted formula students multiplied by the average formula cost
27 per student in the local system's cost grouping and (b) for school fiscal
28 year 2007-08, one and one-fourth percent of the sum of the local system's
29 transportation allowance, special receipts allowance, and distance
30 education and telecommunications allowance and the product of the local
31 system's adjusted formula students multiplied by the average formula cost

1 per student in the local system's cost grouping;

2 (48) Tuition receipts from converted contracts means tuition
3 receipts received by a district from another district in the most
4 recently available complete data year pursuant to a converted contract
5 prior to the expiration of the contract;

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

9 (50) Unadjusted poverty students means, for school fiscal year
10 2016-17 and each school fiscal year thereafter, the greater of the number
11 of low-income students or the free lunch and free milk calculated
12 students in a district; ~~and~~

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

14 (a)(i) Less than one-half student per square mile in each county in
15 which each high school attendance center is located based on the school
16 district census, (ii) less than one formula student per square mile in
17 the local system, and (iii) more than fifteen miles between the high
18 school attendance center and the next closest high school attendance
19 center on paved roads; or

20 (b)(i) More than four hundred fifty square miles in the local
21 system, (ii) less than one-half student per square mile in the local
22 system, and (iii) more than fifteen miles between each high school
23 attendance center and the next closest high school attendance center on
24 paved roads; ~~-~~

25 (52) Virtual school means any school or educational program operated
26 by a school district that:

27 (a) Is offered for credit;

28 (b) Uses distance-learning technologies which predominately use
29 internet-based methods to deliver instruction;

30 (c) Involves instruction that occurs asynchronously with the teacher
31 and student in separate locations;

1 (d) Requires the student to make academic progress toward the next
2 grade level and matriculation from kindergarten through high school
3 graduation;

4 (e) Requires the student to demonstrate competence in subject matter
5 for each class or subject in which the student is enrolled as part of the
6 virtual school; and

7 (f) Requires age-appropriate students to complete state assessment
8 tests; and

9 (53) Virtual student means a student who is enrolled in a virtual
10 school and is not enrolled in any other public school district.

11 Sec. 2. Original section 79-1003, Revised Statutes Supplement,
12 2015, is repealed.