

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 289

Introduced by Walz, 15.

Read first time January 12, 2021

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 Cumulative Supplement, 2020; to redefine a term; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Revised Statutes Cumulative Supplement,
2 2020, 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, and focus school and program allowance, and (c) for school
22 fiscal year 2019-20 and each school fiscal year thereafter, the
23 difference of the general fund operating expenditures as calculated
24 pursuant to subdivision (23) of this section increased by the cost growth
25 factor calculated pursuant to section 79-1007.10, minus the
26 transportation allowance, special receipts allowance, poverty allowance,
27 limited English proficiency allowance, distance education and
28 telecommunications allowance, elementary site allowance, summer school
29 allowance, community achievement plan allowance, and focus school and
30 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;

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

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

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

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

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

29 (9) Converted contract means an expired contract that was in effect
30 for at least fifteen school years beginning prior to school year 2012-13
31 for the education of students in a nonresident district in exchange for

1 tuition from the resident district when the expiration of such contract
2 results in the nonresident district educating students, who would have
3 been covered by the contract if the contract were still in effect, as
4 option students pursuant to the enrollment option program established in
5 section 79-234;

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

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

13 (12) District means any school district or unified system as defined
14 in section 79-4,108;

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

17 (14) Equalization aid means the amount of assistance calculated to
18 be paid to a local system pursuant to section 79-1008.01;

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

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

25 (17) Formula students means:

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

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

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

14 (18) Free lunch and free milk calculated students means, 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) for schools that did not provide free meals to all students pursuant
18 to the community eligibility provision, students who individually
19 qualified for free lunches or free milk pursuant to the federal Richard
20 B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the
21 federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts
22 and sections existed on January 1, 2015, and rules and regulations
23 adopted thereunder, plus (b) for schools that provided free meals to all
24 students pursuant to the community eligibility provision, (i) for school
25 fiscal year 2016-17, the product of the students who attended such school
26 multiplied by the identified student percentage calculated pursuant to
27 such federal provision or (ii) for school fiscal year 2017-18 and each
28 school fiscal year thereafter, the greater of the number of students in
29 such school who individually qualified for free lunch or free milk using
30 the most recent school fiscal year for which the school did not provide
31 free meals to all students pursuant to the community eligibility

1 provision or one hundred ten percent of the product of the students who
2 qualified for free meals at such school pursuant to the community
3 eligibility provision multiplied by the identified student percentage
4 calculated pursuant to such federal provision, except that the free lunch
5 and free milk students calculated for any school pursuant to subdivision
6 (18)(b)(ii) of this section shall not exceed one hundred percent of the
7 students qualified for free meals at such school pursuant to the
8 community eligibility provision;

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

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

16 (21) General fund budget of expenditures means the total budget of
17 disbursements and transfers for general fund purposes as certified in the
18 budget statement adopted pursuant to the Nebraska Budget Act, except that
19 for purposes of the limitation imposed in section 79-1023, the general
20 fund budget of expenditures does not include any special grant funds,
21 exclusive of local matching funds, received by a district;

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

24 (23) General fund operating expenditures means for state aid
25 calculated for school fiscal years 2012-13 and each school fiscal year
26 thereafter, as reported on the annual financial report for the second
27 school fiscal year immediately preceding the school fiscal year in which
28 aid is to be paid, the total general fund expenditures minus (a) the
29 amount of all receipts to the general fund, to the extent that such
30 receipts are not included in local system formula resources, from early
31 childhood education tuition, summer school tuition, educational entities

1 as defined in section 79-1201.01 for providing distance education courses
2 through the Educational Service Unit Coordinating Council to such
3 educational entities, private foundations, individuals, associations,
4 charitable organizations, the textbook loan program authorized by section
5 79-734, federal impact aid, and levy override elections pursuant to
6 section 77-3444, (b) the amount of expenditures for categorical funds,
7 tuition paid, transportation fees paid to other districts, adult
8 education, community services, redemption of the principal portion of
9 general fund debt service, retirement incentive plans authorized by
10 section 79-855, and staff development assistance authorized by section
11 79-856, (c) the amount of any transfers from the general fund to any bond
12 fund and transfers from other funds into the general fund, (d) any legal
13 expenses in excess of fifteen-hundredths of one percent of the formula
14 need for the school fiscal year in which the expenses occurred, (e)(i)
15 for state aid calculated for school fiscal years prior to school fiscal
16 year 2018-19, expenditures to pay for sums agreed to be paid by a school
17 district to certificated employees in exchange for a voluntary
18 termination occurring prior to July 1, 2009, occurring on or after the
19 last day of the 2010-11 school year and prior to the first day of the
20 2013-14 school year, or, to the extent that a district has demonstrated
21 to the State Board of Education pursuant to section 79-1028.01 that the
22 agreement will result in a net savings in salary and benefit costs to the
23 school district over a five-year period, occurring on or after the first
24 day of the 2013-14 school year or (ii) for state aid calculated for
25 school fiscal year 2018-19 and each school fiscal year thereafter,
26 expenditures to pay for incentives agreed to be paid by a school district
27 to certificated employees in exchange for a voluntary termination of
28 employment for which the State Board of Education approved an exclusion
29 pursuant to subdivision (1)(h), (i), (j), or (k) of section 79-1028.01,
30 (f)(i) expenditures to pay for employer contributions pursuant to
31 subsection (2) of section 79-958 to the School Employees Retirement

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

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

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

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

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

1 difference is greater than zero;

2 (27) Local system means a unified system or a school district;

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

24 (29) Low-income students means the number of low-income children
25 within the district multiplied by the ratio of the formula students in
26 the district divided by the total children under nineteen years of age
27 residing in the district as derived from income tax information;

28 (30) Most recently available complete data year means the most
29 recent single school fiscal year for which the annual financial report,
30 fall school district membership report, annual statistical summary,
31 Nebraska income tax liability by school district for the calendar year in

1 which the majority of the school fiscal year falls, and adjusted
2 valuation data are available;

3 (31) Poverty students means (a) for school fiscal years prior to
4 2016-17, the number of low-income students or the number of students who
5 are free lunch and free milk students in a district plus the difference
6 of the number of low-income students or the number of students who are
7 free lunch and free milk students in a district, whichever is greater,
8 minus the average number of poverty students for such district, prior to
9 such addition, for the three immediately preceding school fiscal years if
10 such difference is greater than zero and (b) for school fiscal year
11 2016-17 and each school fiscal year thereafter, the unadjusted poverty
12 students plus the difference of such unadjusted poverty students minus
13 the average number of poverty 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 (32) Qualified early childhood education average daily membership
17 means the product of the average daily membership for school fiscal year
18 2006-07 and each school fiscal year thereafter of students who will be
19 eligible to attend kindergarten the following school year and are
20 enrolled in an early childhood education program approved by the
21 department pursuant to section 79-1103 for such school district for such
22 school year multiplied by the ratio of the actual instructional hours of
23 the program divided by one thousand thirty-two if: (a) The program is
24 receiving a grant pursuant to such section for the third year; (b) the
25 program has already received grants pursuant to such section for three
26 years; or (c) the program has been approved pursuant to subsection (5) of
27 section 79-1103 for such school year and the two preceding school years,
28 including any such students in portions of any of such programs receiving
29 an expansion grant;

30 (33) Qualified early childhood education fall membership means the
31 product of membership on October 1 of each school year of students who

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

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

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

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

19 (37) Sparse local system means a local system that is not a very
20 sparse local system but which meets the following criteria:

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

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

30 (c)(i) Less than one and one-half formula students per square mile
31 in the local system and (ii) more than two hundred seventy-five square

1 miles in the local system; or

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

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

9 (39) Special grant funds means the budgeted receipts for grants,
10 including, but not limited to, categorical funds, reimbursements for
11 wards of the court, short-term borrowings including, but not limited to,
12 registered warrants and tax anticipation notes, interfund loans,
13 insurance settlements, and reimbursements to county government for
14 previous overpayment. The state board shall approve a listing of grants
15 that qualify as special grant funds;

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

18 (41) State board means the State Board of Education;

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

22 (43) Statewide average basic funding per formula student means the
23 statewide total basic funding for all districts divided by the statewide
24 total formula students for all districts;

25 (44) Statewide average general fund operating expenditures per
26 formula student means the statewide total general fund operating
27 expenditures for all districts divided by the statewide total formula
28 students for all districts;

29 (45) Teacher has the definition found in section 79-101;

30 (46) Temporary aid adjustment factor means (a) for school fiscal
31 years before school fiscal year 2007-08, one and one-fourth percent of

1 the sum of the local system's transportation allowance, the local
2 system's special receipts allowance, and the product of the local
3 system's adjusted formula students multiplied by the average formula cost
4 per student in the local system's cost grouping and (b) for school fiscal
5 year 2007-08, one and one-fourth percent of the sum of the local system's
6 transportation allowance, special receipts allowance, and distance
7 education and telecommunications allowance and the product of the local
8 system's adjusted formula students multiplied by the average formula cost
9 per student in the local system's cost grouping;

10 (47) Tuition receipts from converted contracts means tuition
11 receipts received by a district from another district in the most
12 recently available complete data year pursuant to a converted contract
13 prior to the expiration of the contract;

14 (48) Tuitioned students means students in kindergarten through grade
15 twelve of the district whose tuition is paid by the district to some
16 other district or education agency;

17 (49) Unadjusted poverty students means, for school fiscal year
18 2016-17 and each school fiscal year thereafter, the greater of the number
19 of low-income students or the free lunch and free milk calculated
20 students in a district; and

21 (50) Very sparse local system means a local system that has:

22 (a)(i) Less than one-half student per square mile in each county in
23 which each high school attendance center is located based on the school
24 district census, (ii) less than one formula student per square mile in
25 the local system, and (iii) more than fifteen miles between the high
26 school attendance center and the next closest high school attendance
27 center on paved roads; or

28 (b)(i) More than four hundred fifty square miles in the local
29 system, (ii) less than one-half student per square mile in the local
30 system, and (iii) more than fifteen miles between each high school
31 attendance center and the next closest high school attendance center on

1 paved roads.

2 Sec. 2. Original section 79-1003, Revised Statutes Cumulative

3 Supplement, 2020, is repealed.