

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 475

Introduced by Wayne, 13.

Read first time January 17, 2023

Committee:

- 1 A BILL FOR AN ACT relating to school funding; to amend section 79-1001,
- 2 Revised Statutes Cumulative Supplement, 2022; to adopt the Nebraska
- 3 Education Formula; to terminate the Tax Equity and Educational
- 4 Opportunities Support Act; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 12 of this act shall be known and may be
2 cited as the Nebraska Education Formula.

3 Sec. 2. It is the intent, purpose, and goal of the Legislature to
4 create a system of financing the public school system that will:

5 (1) Provide state support for forty-eight percent of aggregate
6 general fund operating expenditures of districts;

7 (2) Reduce reliance on property taxes for the support of schools;

8 (3) Assure greater equity of educational opportunities for students
9 and property tax rates for the support of schools; and

10 (4) Ensure compliance with requirements for school district
11 accreditation.

12 Sec. 3. For purposes of the Nebraska Education Formula, unless the
13 context otherwise requires:

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

15 (2) District means any school district or unified system as defined
16 in section 79-4,108;

17 (3) Ensuing school fiscal year means the school fiscal year
18 following the current school fiscal year;

19 (4) General fund budget of expenditures means the total budget of
20 disbursements and transfers for general fund purposes as certified in the
21 budget statement adopted pursuant to the Nebraska Budget Act; and

22 (5) State aid means the amount of assistance paid to a district
23 pursuant to the Nebraska Education Finance Formula.

24 Sec. 4. (1) For school fiscal year 2024-25 and each school fiscal
25 year thereafter, except as otherwise provided in subsection (2), (3), or
26 (4) of this section or section 5 of this act, each district shall receive
27 state aid based on data from the immediately preceding school fiscal year
28 for such district equal to the sum of:

29 (a) Four thousand seven hundred fifty dollars multiplied by the fall
30 membership for each school within the school district;

31 (b) For any school district that is classified as a sparse school

1 district or a very sparse school district, five hundred dollars
2 multiplied by the fall membership for each school within the school
3 district;

4 (c) One thousand six hundred dollars multiplied by the number of
5 free lunch students for each school within the school district;

6 (d) For any school for which the free lunch students equal at least
7 fifty percent of the fall membership, an additional eight hundred dollars
8 multiplied by the fall membership for such school; and

9 (e) One thousand six hundred dollars multiplied by the limited
10 English proficiency students for each school within the school district.

11 (2) For any district for which the state aid received pursuant to
12 the Tax Equity and Educational Opportunities Support Act for school
13 fiscal year 2023-24 exceeds the state aid calculated pursuant to
14 subsection (1) of this section for school fiscal year 2024-25, such
15 school district shall, except as otherwise provided in subsection (4) of
16 this section or section 5 of this act, receive state aid for school
17 fiscal year 2024-25 equal to the sum of:

18 (a) The state aid calculated pursuant to subsection (1) of this
19 section for such school fiscal year; and

20 (b) Two-thirds of the amount by which the state aid received
21 pursuant to the Tax Equity and Educational Opportunities Support Act for
22 school fiscal year 2023-24 exceeds the state aid calculated pursuant to
23 subsection (1) of this section for school fiscal year 2024-25.

24 (3) For any district for which the state aid received pursuant to
25 the Tax Equity and Educational Opportunities Support Act for school
26 fiscal year 2023-24 exceeds the state aid calculated pursuant to
27 subsection (1) of this section for school fiscal year 2025-26, such
28 school district shall, except as otherwise provided in subsection (4) of
29 this section or section 5 of this act, receive state aid for school
30 fiscal year 2025-26 equal to the sum of:

31 (a) The state aid calculated pursuant to subsection (1) of this

1 section for such school fiscal year; and

2 (b) One-third of the amount by which the state aid received pursuant
3 to the Tax Equity and Educational Opportunities Support Act for school
4 fiscal year 2023-24 exceeds the state aid calculated pursuant to
5 subsection (1) of this section for school fiscal year 2024-25.

6 (4) If a superintendent of a school district fails to file the fall
7 school district membership report on or before the date required by
8 subdivision (4)(c) of section 79-528, such school district shall not
9 receive state aid pursuant to the Nebraska Education Formula for the
10 ensuing school fiscal year.

11 Sec. 5. To receive state aid pursuant to the Nebraska Education
12 Formula, a district shall limit class sizes to no more than:

13 (1) Twenty students in each classroom for students in early
14 childhood education programs, kindergarten, and grades one through three
15 with a paraeducator assisting in the classroom during the full school day
16 for any classroom with sixteen to twenty students;

17 (2) Twenty-two students in each classroom for students in grades
18 four through eight with a paraeducator assisting in the classroom during
19 the full school day for any classroom with eighteen to twenty-two
20 students; and

21 (3) Twenty-five students in each classroom for students in grades
22 nine through twelve with a paraeducator assisting in the classroom during
23 the full school day for any classroom with twenty to twenty-five
24 students.

25 Sec. 6. (1) On or before March 1, 2024, and on or before March 1 of
26 each year thereafter, the department shall determine the amounts to be
27 distributed to each district for the ensuing school fiscal year pursuant
28 to the Nebraska Education Formula and shall certify the amounts to the
29 Director of Administrative Services, the Auditor of Public Accounts, and
30 each district.

31 (2) On or before March 1, 2024, and on or before March 1 of each

1 year thereafter, the department shall report the necessary funding level
2 for the ensuing school fiscal year to the Governor, the Appropriations
3 Committee of the Legislature, and the Education Committee of the
4 Legislature. The report submitted to the committees of the Legislature
5 shall be submitted electronically. Certified state aid amounts, including
6 adjustments pursuant to section 79-1065.02, shall be shown as budgeted
7 non-property-tax receipts and deducted prior to calculating the property
8 tax request in the district's general fund budget statement as provided
9 to the Auditor of Public Accounts pursuant to section 10 of this act.

10 (3) Except as otherwise provided in this subsection, the amounts
11 certified pursuant to subsection (1) of this section shall be distributed
12 in ten as nearly as possible equal payments on the last business day of
13 each month beginning in September of each ensuing school fiscal year and
14 ending in June of the following year, except that when a school district
15 is to receive a monthly payment of less than one thousand dollars, such
16 payment shall be one lump-sum payment on the last business day of
17 December during the ensuing school fiscal year.

18 Sec. 7. On or before March 1, 2024, and on or before March 1 of
19 each year thereafter, the department shall determine and certify to each
20 school district budget authority for the general fund budget of
21 expenditures for the ensuing school fiscal year, which shall equal the
22 general fund budget of expenditures for the immediately preceding school
23 fiscal year grown by the base limitation pursuant to section 77-3446. The
24 special education budget of expenditures shall not be subject to the
25 limitations pursuant to this section and shall be excluded from the
26 school district budget authority and general fund budget of expenditures
27 for purposes of this section.

28 Sec. 8. No district shall adopt a budget, which includes total
29 requirements of depreciation funds, necessary employee benefit fund cash
30 reserves, and necessary general fund cash reserves, exceeding the
31 applicable allowable reserve percentages of total general fund budget of

1 expenditures as specified in the schedule set forth in this section.

2	<u>Average daily</u>	<u>Allowable</u>
3	<u>membership of</u>	<u>reserve</u>
4	<u>district</u>	<u>percentage</u>
5	<u>0 - 471</u>	<u>45</u>
6	<u>471.01 - 3,044</u>	<u>35</u>
7	<u>3,044.01 - 10,000</u>	<u>25</u>
8	<u>10,000.01 and over</u>	<u>20</u>

9 On or before March 1, 2024, and on or before March 1 each year
10 thereafter, the department shall determine and certify each district's
11 applicable allowable reserve percentage for the ensuing school fiscal
12 year.

13 Each district with combined necessary general fund cash reserves,
14 total requirements of depreciation funds, and necessary employee benefit
15 fund cash reserves less than the applicable allowable reserve percentage
16 specified in this section may, notwithstanding the district's applicable
17 allowable growth rate, increase its necessary general fund cash reserves
18 such that the total necessary general fund cash reserves, total
19 requirements of depreciation funds, and necessary employee benefit fund
20 cash reserves do not exceed such applicable allowable reserve percentage.

21 Sec. 9. A district may exceed the budget authority for the general
22 fund budget of expenditures prescribed pursuant to the Nebraska Education
23 Formula by an amount approved by a two-thirds majority of legal voters
24 voting on the issue at a primary, general, or special election called for
25 such purpose upon the recommendation of the board or upon the receipt by
26 the county clerk or election commissioner of a petition requesting an
27 election, signed by at least five percent of the legal voters of the
28 district. The recommendation of the board or the petition of the legal
29 voters shall include the amount by which the board would increase its
30 general fund budget of expenditures for the ensuing school fiscal year
31 over and above the budget authority for the general fund budget of

1 expenditures prescribed in section 7 of this act. The county clerk or
2 election commissioner shall place the question on the primary or general
3 election ballot or call for a special election on the issue after the
4 receipt of such board recommendation or legal voter petition. The
5 election shall be held pursuant to the Election Act or section 77-3444,
6 and all costs for a special election shall be paid by the district. A
7 vote to exceed the budget authority for the general fund budget of
8 expenditures may be approved on the same question as a vote to exceed the
9 levy limits provided in section 77-3444.

10 Sec. 10. (1) The department may require each district to submit to
11 the department a duplicate copy of such portions of the district's budget
12 statement as the Commissioner of Education directs. The department may
13 verify any data used to meet the requirements of the Nebraska Education
14 Formula. The Auditor of Public Accounts shall review each district's
15 budget statement for statutory compliance, make necessary changes in the
16 budget documents for districts to effectuate the budget limitations
17 imposed pursuant to the Nebraska Education Formula, and notify the
18 Commissioner of Education of any district failing to submit to the
19 auditor the budget documents required pursuant to this subsection by the
20 date established in subsection (1) of section 13-508 or failing to make
21 any corrections of errors in the documents pursuant to section 13-504 or
22 13-511.

23 (2) If a school district fails to submit to the department or the
24 auditor the budget documents required pursuant to subsection (1) of this
25 section by the date established in subsection (1) of section 13-508 or
26 fails to make any corrections of errors in the documents pursuant to
27 section 13-504 or 13-511, the commissioner, upon notification from the
28 auditor or upon his or her own knowledge that the required budget
29 documents and any required corrections of errors from any school district
30 have not been properly filed in accordance with the Nebraska Budget Act
31 and after notice to the district and an opportunity to be heard, shall

1 direct that any state aid granted pursuant to the Nebraska Education
2 Formula be withheld until such time as the required budget documents or
3 corrections of errors are received by the auditor and the department. In
4 addition, the commissioner shall direct the county treasurer to withhold
5 all school money belonging to the school district until such time as the
6 commissioner notifies the county treasurer of receipt of the required
7 budget documents or corrections of errors. If the school district does
8 not comply with this section prior to the end of the state's biennium
9 following the biennium which included the fiscal year for which state aid
10 was calculated, the state aid funds shall revert to the General Fund. The
11 amount of any reverted funds shall be included in data reported by the
12 department pursuant to subsection (2) of section 6 of this act. The board
13 of any district failing to submit to the department or the auditor the
14 budget documents required pursuant to this section by the date
15 established in subsection (1) of section 13-508 or failing to make any
16 corrections of errors in the documents pursuant to section 13-504 or
17 13-511 shall be liable to the school district for all school money which
18 such district may lose by such failing.

19 Sec. 11. The department, with assistance from the Property Tax
20 Administrator, the Legislative Fiscal Analyst, and the budget division of
21 the Department of Administrative Services, shall annually, on or before
22 November 15, 2023, and on or before November 15 of each year thereafter,
23 provide an estimate of the necessary funding level for the next school
24 fiscal year under the Nebraska Education Formula to the Governor, the
25 Appropriations Committee of the Legislature, and the Education Committee
26 of the Legislature.

27 Sec. 12. The Appropriations Committee of the Legislature shall
28 annually include the amount necessary to fund the state aid that will be
29 certified to school districts on or before March 1, 2024, and on or
30 before March 1 of each year thereafter for each ensuing school fiscal
31 year in its recommendations to the Legislature to carry out the

1 requirements of the Nebraska Education Formula.

2 Sec. 13. Section 79-1001, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 79-1001 Sections 79-1001 to 79-1033 shall be known and may be cited
5 as the Tax Equity and Educational Opportunities Support Act. The Tax
6 Equity and Educational Opportunities Support Act shall be applicable for
7 state aid calculated and distributed pursuant to the act for school
8 fiscal years through school fiscal year 2023-24. The Tax Equity and
9 Educational Opportunities Support Act shall terminate on July 1, 2025.

10 Sec. 14. Original section 79-1001, Revised Statutes Cumulative
11 Supplement, 2022, is repealed.