

## LEGISLATIVE BILL 795

Approved by the Governor April 11, 2006

Introduced by Cunningham, 40; Raikes, 25

AN ACT relating to school finance; to amend section 79-1010, Reissue Revised Statutes of Nebraska; to change provisions related to the repayment of incentive payments by school districts; to repeal the original section; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-1010, Reissue Revised Statutes of Nebraska, is amended to read:

79-1010 (1) To encourage consolidation and unification of school districts, incentives shall be paid to reorganized districts and unified systems in certain size ranges for a three-year period to reward the reorganized districts or unified systems for their efforts to increase efficiency in the delivery of educational services. This section shall only apply to consolidations and unifications with an effective date after May 31, 1996, and before August 2, 2001.

(2) To qualify for incentive payments under this section, the consolidation or unification must be approved for incentive payments by the State Committee for the Reorganization of School Districts. For consolidations, when reviewing a petition for the boundary change pursuant to section 79-413, the state committee shall issue a preliminary approval or disapproval for incentive payments along with a notice specifying application procedures. For consolidations, affected school districts shall file an application for incentive payments with the state committee within thirty days following the issuance of the boundary change order pursuant to subsection (1) of section 79-479. For unifications, the unified system or participating districts shall file an application for incentive payments with the state committee either following approval of the application for unification or in conjunction with the application for unification. The state committee shall, within thirty days, approve or disapprove incentive payments. For consolidations, if there are no material changes in the reorganization plan between a preliminary approval and application for incentive payments following the boundary change order, the state committee shall approve the incentive payments. If a preliminary disapproval was issued or if there was a material change in the reorganization plan prior to the issuance of the boundary change order, the state committee shall reconsider the approval or disapproval of incentive payments. The state committee shall make the determination regarding whether or not any changes in a reorganization plan are material for the purpose of approving or disapproving incentive payments.

(3) For incentive payments to be approved for either consolidations or unifications by the state committee, a reorganization study, including efficiency, demographic, curriculum, facility, financial, and community components, must be completed. If a study containing such elements is completed and the reorganization plan or unification agreement will most likely result in more efficiency in the delivery of educational services or greater educational opportunities, the state committee may approve incentive payments for the affected districts.

(4) (a) Incentive payments shall be based on the number of students moving from one size range to a lower cost size range based on the average daily membership in each affected district in the school fiscal year immediately preceding the first school fiscal year the boundary change or unification is in effect and the average daily membership the consolidated district or unified system would have had following the boundary change or unification if it had occurred in the school fiscal year immediately preceding the first school fiscal year the boundary change or unification is in effect. The reorganized school districts or unified systems existing after the qualified boundary change or unification shall receive incentive payments based on the following criteria for each student meeting the criteria:

For grades one through six, including full-day kindergarten:

Average daily membership range before consolidation or unification	Average daily membership range with boundary change or unification	Incentive payment per student who moves from the average daily membership range before consolidation or unification to the average daily membership range with boundary change or unification
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.01 - 101.00	101.01 - 185.00	\$590
.01 - 101.00	185.01 - 375.00	890
.01 - 101.00	375.01 - 1,000.00	1,190
.01 - 101.00	1,000.01 - 1,900.00	1,320
101.01 - 185.00	185.01 - 375.00	300
101.01 - 185.00	375.01 - 1,000.00	590
101.01 - 185.00	1,000.01 - 1,900.00	730
185.01 - 375.00	375.01 - 1,000.00	300
185.01 - 375.00	1,000.01 - 1,900.00	430
375.01 - 1,000.00	1,000.01 - 1,900.00	130

For grades seven and eight:

Average daily membership range before consolidation or unification	Average daily membership range with boundary change or unification	Incentive payment per student who moves from the average daily membership range before consolidation or unification to the average daily membership range with boundary change or unification
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.01 - 31.00	31.01 - 57.00	\$710
.01 - 31.00	57.01 - 115.00	1,070
.01 - 31.00	115.01 - 308.00	1,430
.01 - 31.00	308.01 - 585.00	1,590
31.01 - 57.00	57.01 - 115.00	360
31.01 - 57.00	115.01 - 308.00	710
31.01 - 57.00	308.01 - 585.00	870
57.01 - 115.00	115.01 - 308.00	350

57.01 - 115.00	308.01 - 585.00	510
115.01 - 308.00	308.01 - 585.00	160

For grades nine through twelve:

Average daily membership range before consolidation or unification	Average daily membership range with boundary change or unification	Incentive payment per student who moves from the average daily membership range before consolidation or unification to the average daily membership range with boundary change or unification
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.01 - 50.00	50.01 - 75.00	\$1,640
.01 - 50.00	75.01 - 100.00	2,550
.01 - 50.00	100.01 - 150.00	2,924
.01 - 50.00	150.01 - 250.00	3,180
.01 - 50.00	250.01 - 500.00	3,450
.01 - 50.00	500.01 - 1,000.00	3,750
50.01 - 75.00	75.01 - 100.00	910
50.01 - 75.00	100.01 - 150.00	1,280
50.01 - 75.00	150.01 - 250.00	1,540
50.01 - 75.00	250.01 - 500.00	1,810
50.01 - 75.00	500.01 - 1,000.00	2,110
75.01 - 100.00	100.01 - 150.00	380
75.01 - 100.00	150.01 - 250.00	630
75.01 - 100.00	250.01 - 500.00	900
75.01 - 100.00	500.01 - 1,000.00	1,200
100.01 - 150.00	150.01 - 250.00	260
100.01 - 150.00	250.01 - 500.00	530
100.01 - 150.00	500.01 - 1,000.00	830
150.01 - 250.00	250.01 - 500.00	270
150.01 - 250.00	500.01 - 1,000.00	570
250.01 - 500.00	500.01 - 1,000.00	300

(b) For local systems that will receive base fiscal year incentive payments for school fiscal year 2001-02 for a consolidation that includes two districts which entered into an agreement under the Interlocal Cooperation Act in which one district did not offer instruction in either grades seven through twelve or nine through twelve and contracted with the other district for the education of seventh through twelfth grade students or ninth through twelfth grade students for the school year prior to the consolidation, those

seventh through twelfth grade students or ninth through twelfth grade students who were being educated outside their resident district pursuant to the agreement by a school that is in the local system receiving the incentives shall be included in the average daily membership of the resident district before consolidation for purposes of calculating incentive payments under this section.

(5) Except as otherwise provided in subsection (6) of this section, two million dollars shall be set aside for school fiscal years 1999-00 and 2000-01 and one million six hundred sixteen thousand three hundred fifty-four dollars shall be set aside for school fiscal year 2001-02 for base fiscal year incentive payments pursuant to subsection (6) of this section. All other payments pursuant to this section shall be paid directly to the consolidated district or unified system from the Tax Equity and Educational Opportunities Fund.

(6) Base fiscal year incentive payments shall be calculated as of August 2 immediately preceding the base fiscal year and shall be paid directly to the consolidated district or unified system from the amount set aside for such school fiscal year from the Tax Equity and Educational Opportunities Fund pursuant to subsection (5) of this section. The payments shall be made in ten as nearly as possible equal payments on the last business day of each month, beginning in September and ending the following June, for the base fiscal year. If the total amount of base fiscal year incentive payments for that school fiscal year exceeds the amount set aside for such school fiscal year, the base fiscal year incentive payments shall be reduced proportionately so that the total amount of base fiscal year incentive payments equals the amount set aside for such school fiscal year pursuant to subsection (5) of this section. The base fiscal year incentive payments shall not be included in local system formula resources as calculated under section 79-1018.01. No base fiscal year incentive payments shall be made pursuant to this subsection after July 1, 2002.

(7) (a) For consolidations, one hundred percent of the amount calculated pursuant to subsection (4) of this section shall be included in the distribution of state aid for each of the first three consecutive school fiscal years beginning with the base fiscal year or two consecutive school fiscal years following the base fiscal year if payments were made in the base fiscal year pursuant to subsection (6) of this section. For unifications, one hundred percent of the amount calculated pursuant to subsection (4) of this section shall be included in the distribution of state aid for the first school fiscal year beginning with the base fiscal year, seventy-five percent for the second school fiscal year beginning with the base fiscal year, and fifty percent for the third school fiscal year beginning with the base fiscal year. If a unified system consolidates and the boundary change takes effect before August 2, 2001, the consolidated district will be eligible to receive seventy-five percent of the amount originally calculated pursuant to subsection (4) of this section in the base fiscal year. If a consolidated district is still receiving incentive payments for a unification in the base fiscal year, the payments for the remainder of the first three years will be at one hundred percent of the amount calculated pursuant to subsection (4) of this section and in the fourth year, the district will receive the difference between the incentive payments received and three hundred percent of the amount calculated pursuant to subsection (4) of this section. If before August 2, 2001, additional districts are added to the unified system or are added in a consolidation, the additional incentives shall be calculated by the department and added to the incentive payments.

(b) For local systems that received base fiscal year incentive payments prior to school fiscal year 2001-02 for a consolidation that included two districts which entered into an agreement under the Interlocal Cooperation Act in which one district did not offer instruction for either grades seven through twelve or nine through twelve and contracted with the other district for the education of seventh through twelfth grade students or ninth through twelfth grade students for the school year prior to the consolidation, a calculation shall be made for additional incentives. The additional incentives shall be calculated pursuant to subsection (4) of this section, except that the average daily membership before consolidation shall equal the seventh through twelfth grade students or ninth through twelfth grade students who were being educated outside their resident district pursuant to the agreement by a school that is in the local system receiving the incentives. The June 30, 2001, and June 30, 2002, state aid payments for such local system shall include an amount equal to the additional incentives calculated pursuant to this subsection. An amount equal to the additional incentives shall also be included in the reorganization incentives for state aid to be paid in the 2002-03 school fiscal year, subject to any reduction that may be required

pursuant to subsection (9) of this section.

(8) If, prior to the beginning of the eighth school year of operating as a unified system, the unified system (a) discontinues its status as a unified system and (b) does not consolidate, the districts in the unified system shall pay back the incentives. The total incentives paid to the unified system shall be divided between the districts based on the adjusted valuation of each district in the year prior to the discontinuation of the unified system, and each district's share shall be paid back through reductions in state aid in equal amounts for five years unless a lesser number of years is agreed to by the school district and the department. If a district withdraws from a unified system prior to the beginning of the eighth school year of participating in the unified system, the district shall pay back the incentives attributable to the district's participation in the unified system through reductions in state aid in equal amounts for five years unless a lesser number of years is agreed to by the school district and the department. The total incentives paid shall include interest calculated from the date of payment until the estimated repayment at the rate specified in section 45-104.02 as of the expiration of the agreement or the effective date of withdrawal. If the state aid is less than the repayment amount in any school fiscal year, the remaining repayment will reduce state aid in future school fiscal years. In entering into any agreement with a school district for the repayment of incentives, the department shall take into consideration the ability of the school district to repay the incentives in the fewest number of years and meet the educational needs of the students that are enrolled in the school district while repaying the incentives.

(9) If the total amount of incentive payments to school districts for a school year exceeds one percent of the appropriation to the Tax Equity and Educational Opportunities Fund minus two million dollars, the incentive payments shall be reduced proportionately so that the total amount of incentive payments to school districts equals one percent of the appropriation to the Tax Equity and Educational Opportunities Fund minus two million dollars. The payments shall not be included in local system formula resources as calculated under section 79-1018.01. No incentive payments shall be made pursuant to this section after July 1, 2004.

Sec. 2. Original section 79-1010, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.