

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 378

Introduced by Robak, 22

Read first time January 8, 2001

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities
2 Support Act; to amend sections 79-1003, 79-1015.01, and
3 79-1072.01, Revised Statutes Supplement, 2000; to define
4 terms; to change provisions relating to calculation of
5 the local effort rate; to harmonize provisions; and to
6 repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Revised Statutes Supplement,
2 2000, is amended to read:

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

5 (1) Adjusted general fund operating expenditures means
6 general fund operating expenditures as calculated pursuant to
7 subdivision ~~(21)~~ (22) of this section minus the transportation
8 allowance and minus the special receipts allowance;

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

20 (3) Allocated income tax funds means the amount of
21 assistance paid to a local system pursuant to section 79-1005.01 as
22 adjusted by the minimum levy adjustment pursuant to section
23 79-1008.02;

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

28 (5) Average daily membership means the average daily

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

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

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

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

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

19 (10) Department means the State Department of Education;

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

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

24 (13) Equalization aid means the amount of assistance
25 calculated to be paid to a local system pursuant to sections
26 79-1008.01 to 79-1022;

27 (14) Fall membership means the total membership in
28 kindergarten through grade twelve attributable to the local system

1 as reported on the fall school district membership reports for each
2 district pursuant to section 79-528;

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

5 (16) Formula students means (a) for state aid certified
6 pursuant to section 79-1022, the sum of fall membership from the
7 school fiscal year immediately preceding the school fiscal year in
8 which the aid is to be paid, multiplied by the average ratio of
9 average daily membership to fall membership for the second school
10 fiscal year immediately preceding the school fiscal year in which
11 aid is to be paid and the prior two school fiscal years, and
12 tuitioned students from the school fiscal year immediately
13 preceding the school fiscal year in which the aid is to be paid and
14 (b) for final calculation of state aid pursuant to section 79-1065,
15 the sum of average daily membership and tuitioned students from the
16 school fiscal year immediately preceding the school fiscal year in
17 which the aid was paid;

18 (17) Formula valuation means a local system's adjusted
19 valuation multiplied by the local system income factor;

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

24 ~~(18)~~ (19) Full-day kindergarten means kindergarten
25 offered by a district for at least one thousand thirty-two
26 instructional hours;

27 ~~(19)~~ (20) General fund budget of expenditures means the
28 total budgeted expenditures for general fund purposes as certified

1 in the budget statement adopted pursuant to the Nebraska Budget
2 Act, except that for purposes of the limitation imposed in section
3 79-1023, the calculation of Class I total allowable general fund
4 budget of expenditures minus the special education budget of
5 expenditures pursuant to section 79-1083.03, and the calculation
6 pursuant to subdivision (2) of section 79-1027.01, the general fund
7 budget of expenditures does not include any special grant funds,
8 exclusive of local matching funds, received by a district subject
9 to the approval of the department;

10 ~~(20)~~ (21) General fund expenditures means all
11 expenditures from the general fund;

12 ~~(21)~~ (22) General fund operating expenditures means the
13 total general fund expenditures minus categorical funds, tuition
14 paid, transportation fees paid to other districts, adult education,
15 summer school, community services, redemption of the principal
16 portion of general fund debt service, and transfers from other
17 funds into the general fund for the second school fiscal year
18 immediately preceding the school fiscal year in which aid is to be
19 paid;

20 ~~(22)~~ (23) Income tax liability means the amount of the
21 reported income tax liability for resident individuals pursuant to
22 the Nebraska Revenue Act of 1967 less all nonrefundable credits
23 earned and refunds made;

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

27 ~~(24)~~ (25) High school district means a school district
28 providing instruction in at least grades nine through twelve;

1 ~~(25)~~ (26) Limited English proficiency student means a
2 student with limited English proficiency from the most recent data
3 available on November 1 of the school fiscal year preceding the
4 school fiscal year in which aid is to be paid;

5 ~~(26)~~ (27) Local system means a Class VI district and the
6 associated Class I districts or a Class II, III, IV, or V district
7 and any affiliated Class I districts or portions of Class I
8 districts. The membership, expenditures, and resources of Class I
9 districts that are affiliated with multiple high school districts
10 will be attributed to local systems based on the percent of the
11 Class I valuation that is affiliated with each high school
12 district;

13 ~~(27)~~ (28) Local system adjusted gross income per return
14 means the total Nebraska individual adjusted gross income reported
15 on Nebraska income tax returns by residents of a local system
16 divided by the total number of Nebraska income tax returns filed by
17 residents of the local system, as reported by the Department of
18 Revenue for the second preceding year;

19 (29) Local system income factor equals one plus fifty
20 percent of the difference of the local system income ratio minus
21 one;

22 (30) Local system income ratio means the ratio of the
23 local system adjusted gross income per return divided by the state
24 adjusted gross income per return;

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

1 being calculated;

2 ~~(28)~~ (32) Most recently available complete data year
3 means the most recent single school fiscal year for which the
4 annual financial report, fall school district membership report,
5 annual statistical summary, Nebraska income tax liability by school
6 district for the calendar year in which the majority of the school
7 fiscal year falls, and adjusted valuation data are available;

8 ~~(29)~~ (33) Regular route transportation means the
9 transportation of students on regularly scheduled daily routes to
10 and from the attendance center;

11 ~~(30)~~ (34) Reorganized district means any district
12 involved in a consolidation and currently educating students
13 following consolidation;

14 ~~(31)~~ (35) School year or school fiscal year means the
15 fiscal year of a school district as defined in section 79-1091;

16 ~~(32)~~ (36) Special education means specially designed
17 kindergarten through grade twelve instruction pursuant to section
18 79-1125, and includes special education transportation;

19 ~~(33)~~ (37) Special grant funds means the budgeted receipts
20 for grants, including, but not limited to, Title I funds, Title VI
21 funds, funds from the Education Innovation Fund, reimbursements for
22 wards of the court, short-term borrowings including, but not
23 limited to, registered warrants and tax anticipation notes,
24 interfund loans, insurance settlements, and reimbursements to
25 county government for previous overpayment, that have been approved
26 by the state board;

27 ~~(34)~~ (38) Special receipts allowance means the amount of
28 special education, state ward, and accelerated or differentiated

1 curriculum program receipts included in local system formula
2 resources under subdivisions (7), (8), (16), and (17) of section
3 79-1018.01;

4 ~~(35)~~ (39) State adjusted gross income per return means
5 the total Nebraska individual adjusted gross income divided by the
6 total number of Nebraska individual income tax returns, of those
7 returns designating school districts, as reported by the Department
8 of Revenue for the second preceding year;

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

12 ~~(36)~~ (41) State board means the State Board of Education;

13 ~~(37)~~ (42) State support means all funds provided to
14 districts by the State of Nebraska for the general fund support of
15 elementary and secondary education;

16 ~~(38)~~ (43) Transportation allowance means the lesser of
17 (a) for state aid calculated for school fiscal year 1998-99, each
18 district's, and for state aid calculated for school fiscal year
19 1999-00 and each school fiscal year thereafter, each local system's
20 general fund expenditures for regular route transportation and in
21 lieu of transportation expenditures pursuant to section 79-611 in
22 the second school fiscal year immediately preceding the school
23 fiscal year in which aid is to be paid, but not including special
24 education transportation expenditures or other expenditures
25 previously excluded from general fund operating expenditures, or
26 (b) for state aid calculated for school fiscal year 1998-99, for
27 each district, and for state aid calculated for school fiscal year
28 1999-00 and each school fiscal year thereafter, for each local

1 ~~system,~~ the number of miles traveled in the second school fiscal
2 year immediately preceding the school fiscal year in which aid is
3 to be paid by vehicles owned, leased, or contracted by the district
4 or the districts in the local system for the purpose of regular
5 route transportation multiplied by four hundred percent of the
6 mileage rate established by the Department of Administrative
7 Services pursuant to section 81-1176 as of January 1 of the most
8 recently available complete data year added to in lieu of
9 transportation expenditures pursuant to section 79-611 from the
10 same data year; and

11 ~~(39)~~ (44) Tuitioned students means students in
12 kindergarten through grade twelve of the district whose tuition is
13 paid by the district to some other district or education agency.

14 Sec. 2. Section 79-1015.01, Revised Statutes Supplement,
15 2000, is amended to read:

16 79-1015.01. (1) Local system formula resources shall
17 include local effort rate yield which shall be computed as
18 prescribed in this section.

19 (2) For state aid certified pursuant to section 79-1022,
20 the local effort rate shall be the maximum levy authorized pursuant
21 to section 77-3442 less ten cents. For the final calculation of
22 state aid pursuant to section 79-1065, the local effort rate shall
23 be the rate which, when multiplied by the total ~~adjusted~~ formula
24 valuation of all taxable property in local systems receiving
25 equalization aid pursuant to the Tax Equity and Educational
26 Opportunities Support Act, will produce the amount needed to
27 support the total formula need of such local systems when added to
28 state aid appropriated by the Legislature and other actual receipts

1 of local systems described in section 79-1018.01. The local effort
2 rate yield shall be determined by multiplying each local system's
3 total ~~adjusted~~ formula valuation by the local effort rate.

4 Sec. 3. Section 79-1072.01, Revised Statutes Supplement,
5 2000, is amended to read:

6 79-1072.01. (1) Temporary mitigation funds shall be
7 distributed to local systems which have property tax and state aid
8 resources for school fiscal year 1998-99 which are less than ninety
9 percent of their property tax and state aid resources for school
10 fiscal year 1997-98. The local system shall receive a lump-sum
11 payment in an amount equal to ninety percent of the school fiscal
12 year 1997-98 property tax and state aid resources minus the school
13 fiscal year 1998-99 property tax and state aid resources if the
14 following criteria are met:

15 (a) The local system's school fiscal year 1997-98 general
16 fund budget of expenditures minus the special education budget of
17 expenditures did not exceed the school fiscal year 1995-96 general
18 fund budget of expenditures minus the special education budget of
19 expenditures by more than two percent plus the two-year percentage
20 growth in students for the local system; and

21 (b)(i) The local system has shown an intent to merge,
22 consolidate, or unify with at least one specified high school
23 district by June 1, 1999, through a public affirmative vote by the
24 school board of the high school district in the local system with a
25 majority of the members of the school board signing an affidavit
26 acknowledging that the intent of the signing board member is to
27 proceed with a merger, consolidation, or unification involving the
28 district on the board of which they are serving. Affidavits shall

1 be filed with the State Department of Education on or before August
2 1, 1998. The temporary mitigation funds provided in this section
3 shall be returned if the receiving district does not merge,
4 consolidate, or unify prior to June 30, 2000. The temporary
5 mitigation funds need not be returned if, prior to June 30, 2000,
6 the receiving district is unable as determined by the State
7 Committee for the Reorganization of School Districts to merge,
8 consolidate, or unify despite good faith efforts because all
9 districts with which the receiving district could reasonably be
10 expected to merge, consolidate, or unify declined such merger,
11 consolidation, or unification;

12 (ii) The local system is within the sparse cost grouping
13 or the very sparse cost grouping pursuant to section 79-1007.02;

14 (iii) The local system contains more than one hundred
15 seventy-five square miles; or

16 (iv) The local system is subject to loss of state aid due
17 to clerical error as defined in subsection (4) of section 79-1016.

18 (2) If the payments due to local systems under this
19 section exceed the amount of funds appropriated by the Legislature,
20 the funds shall be distributed on a pro rata basis to such local
21 systems. Payments shall be made on or before September 15, 1998.
22 Payments to local systems that include Class I districts shall be
23 divided proportionally among the districts in the local system
24 based on the weighted formula students attributed to each district
25 in the local system for the certification of state aid to be paid
26 in school fiscal year 1998-99. The department shall identify local
27 systems which qualify for payments under this section and shall
28 distribute the funds to the districts in qualifying local systems.

1 (3) The department shall adjust payments of state aid as
2 defined in ~~subdivision (35) of~~ section 79-1003 to those school
3 districts which received temporary mitigation funds and did not
4 merge after a final determination by the State Committee for the
5 Reorganization of School Districts. If the total adjustment cannot
6 be made from the funds to be provided in the ensuing school fiscal
7 year, the adjustment shall be prorated, with additional adjustments
8 to payments for the future school fiscal years. The department
9 shall maintain an accurate account and a record of the reasons the
10 adjustments were made and the amount of such adjustments.

11 (4) For purposes of this section:

12 (a) Local system has the definition found in section
13 79-1003;

14 (b) Property tax and state aid resources for school
15 fiscal year 1997-98 means the sum of state aid distributed pursuant
16 to the Tax Equity and Educational Opportunities Support Act for
17 school fiscal year 1997-98 plus the product of the general fund
18 common levy for school fiscal year 1997-98 multiplied by the local
19 system's assessed valuation for 1997;

20 (c) Property tax and state aid resources for school
21 fiscal year 1998-99 means the sum of state aid certified pursuant
22 to the Tax Equity and Educational Opportunities Support Act for
23 school fiscal year 1998-99 plus the product of a levy of one dollar
24 and ten cents per one hundred dollars multiplied by the local
25 system's adjusted valuation for 1998 as certified by the Property
26 Tax Administrator on or before July 1, 1998; and

27 (d) Two-year percentage growth in students means the sum
28 of the growth in students for school fiscal year 1996-97 and school

1 fiscal year 1997-98 to be calculated by applying the methodology in
2 section 79-1025 as it existed on January 1, 1998, except that
3 growth in students is calculated for local systems rather than
4 districts and may be negative for each school fiscal year for the
5 purpose of adding the growth in students together from each school
6 fiscal year but the two-year percentage growth rate shall be zero
7 if the sum is negative.

8 Sec. 4. Original sections 79-1003, 79-1015.01, and
9 79-1072.01, Revised Statutes Supplement, 2000, are repealed.