

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 660

Introduced by Hartnett, 45

Read first time January 16, 2001

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities
2 Support Act; to amend sections 79-1007.01, 79-1007.02,
3 79-1025, 79-1026, 79-1029, 79-1108.02, 79-1241.01, and
4 79-1243, Revised Statutes Supplement, 2000; to change
5 provisions relating to basic allowable growth rate; to
6 harmonize provisions; and to repeal the original
7 sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1007.01, Revised Statutes
2 Supplement, 2000, is amended to read:

3 79-1007.01. (1) For school fiscal year 1998-99 and each
4 school fiscal year thereafter, the adjusted formula students for
5 each local system shall be calculated by:

6 (a) Multiplying the formula students in each grade range
7 by the corresponding weighting factors to calculate the weighted
8 formula students for each grade range as follows:

9 (i) The weighting factor for kindergarten is five-tenths;

10 (ii) The weighting factor for grades one through six,
11 including full-day kindergarten, is one;

12 (iii) The weighting factor for grades seven and eight is
13 one and two-tenths; and

14 (iv) The weighting factor for grades nine through twelve
15 is one and four-tenths;

16 (b) Adding the weighted formula students for each grade
17 range to calculate the weighted formula students for the local
18 system; and

19 (c) Adjusting the weighted formula students by adding the
20 following demographic factors:

21 (i) The Indian-land factor shall equal 0.25 times the
22 average daily attendance of students who reside on Indian land as
23 reported by the United States Department of Education in
24 calculating the local system's payment pursuant to 20 U.S.C. 7701
25 et seq.;

26 (ii) The limited English proficiency factor shall equal
27 0.25 times the formula students in the local system with limited
28 English proficiency as defined under rules and regulations of the

1 United States Department of Education promulgated pursuant to Title
2 VI of the Civil Rights Act of 1964;

3 (iii) The department shall calculate the number of
4 formula students to whom the poverty factor shall apply. The
5 department shall calculate a ratio of the formula students to the
6 total children under nineteen years of age residing in the local
7 system and shall apply the ratio to the low-income children within
8 the local system, in order to determine the number of low-income
9 students within such local system. The number of children under
10 nineteen years of age used in this calculation shall be derived
11 from income tax information. The poverty factor shall equal the
12 number of low-income students or the formula students qualified for
13 free lunches or free milk under United States Department of
14 Agriculture child nutrition programs, whichever is greater,
15 multiplied by the following factors:

16 (A) 0 for the qualified formula students comprising the
17 first five percent of the formula students in the local system;

18 (B) 0.05 for the qualified formula students comprising
19 more than five percent and not more than ten percent of the formula
20 students in the local system;

21 (C) 0.10 for the qualified formula students comprising
22 more than ten percent and not more than fifteen percent of the
23 formula students in the local system;

24 (D) 0.15 for the qualified formula students comprising
25 more than fifteen percent and not more than twenty percent of the
26 formula students in the local system;

27 (E) 0.20 for the qualified formula students comprising
28 more than twenty percent and not more than twenty-five percent of

1 the formula students in the local system;

2 (F) 0.25 for the qualified formula students comprising
3 more than twenty-five percent and not more than thirty percent of
4 the formula students in the local system; and

5 (G) 0.30 for the qualified formula students comprising
6 more than thirty percent of the formula students in the local
7 system; and

8 (iv) The extreme remoteness factor shall equal 0.125
9 times the formula students in the local system for each local
10 system that has fewer than two hundred formula students, more than
11 six hundred square miles in the local system, less than
12 three-tenths formula student per square mile in the local system,
13 and more than twenty-five miles between the high school attendance
14 center and the next closest high school attendance center on paved
15 roads.

16 (2) The total adjusted formula students for each local
17 system shall equal the weighted formula students plus the
18 demographic factors, except that (a) for local systems qualifying
19 for the extreme remoteness factor, the total adjusted formula
20 students shall be greater than or equal to one hundred fifty
21 adjusted formula students, (b) the total adjusted formula students
22 for a local system shall not include the extreme remoteness factor
23 or any adjustment to the adjusted formula students resulting from
24 qualification for the extreme remoteness factor for the calculation
25 of the average formula cost per student in each cost grouping
26 pursuant to subdivision (2) of section 79-1007.02, and (c) the
27 total adjusted formula students for a local system shall include
28 the extreme remoteness factor and any adjustment to the adjusted

1 formula students resulting from qualification for the extreme
2 remoteness factor for the calculation of the local system's formula
3 need pursuant to subdivision ~~(3)~~ (4) of section 79-1007.02.

4 Sec. 2. Section 79-1007.02, Revised Statutes Supplement,
5 2000, is amended to read:

6 79-1007.02. For state aid calculated for school fiscal
7 year 1998-99 and each school fiscal year thereafter:

8 (1) Using data from the annual financial reports for the
9 second school fiscal year immediately preceding the school fiscal
10 year in which aid is to be paid, the annual statistical summary
11 reports for the school fiscal year immediately preceding the school
12 fiscal year in which aid is to be paid, the fall membership reports
13 and supplements thereto for the school fiscal year immediately
14 preceding the school fiscal year in which aid is to be paid, and
15 the school district census as reported under sections 79-524 and
16 79-578 for the second school fiscal year preceding the school
17 fiscal year in which aid is to be paid, the department shall divide
18 the local systems into three cost groupings prior to the
19 certification of state aid based upon the following criteria:

20 (a) The very sparse cost grouping will consist of local
21 systems that have (i)(A) less than one-half student per square mile
22 in each county in which each high school attendance center is
23 located, based on the school district census, (B) less than one
24 formula student per square mile in the local system, and (C) more
25 than fifteen miles between the high school attendance center and
26 the next closest high school attendance center on paved roads or
27 (ii)(A) more than four hundred fifty square miles in the local
28 system, (B) less than one-half student per square mile in the local

1 system, and (C) more than fifteen miles between each high school
2 attendance center and the next closest high school attendance
3 center on paved roads;

4 (b) The sparse cost grouping will consist of local
5 systems that do not qualify for the very sparse cost grouping but
6 which meet the following criteria:

7 (i)(A) Less than two students per square mile in the
8 county in which each high school is located, based on the school
9 district census, (B) less than one formula student per square mile
10 in the local system, and (C) more than ten miles between each high
11 school attendance center and the next closest high school
12 attendance center on paved roads;

13 (ii)(A) Less than one and one-half formula students per
14 square mile in the local system and (B) more than fifteen miles
15 between each high school attendance center and the next closest
16 high school attendance center on paved roads;

17 (iii)(A) Less than one and one-half formula students per
18 square mile in the local system and (B) more than two hundred
19 seventy-five square miles in the local system; or

20 (iv)(A) Less than two formula students per square mile in
21 the local system and (B) the local system includes an area equal to
22 ninety-five percent or more of the square miles in the largest
23 county in which a high school attendance center is located in the
24 local system; and

25 (c) The standard cost grouping will consist of local
26 systems that do not qualify for the very sparse or the sparse cost
27 groupings.

28 For purposes of subdivision (1) of this section, if a

1 local system did not operate and offer instruction in grades nine
2 through twelve within the boundaries of the local system during the
3 school fiscal year immediately preceding the school fiscal year in
4 which aid is to be paid, the local system shall not be considered
5 to have a high school attendance center;

6 (2) ~~The~~ Except as provided in subdivision (3) of this
7 section, the department shall calculate the average formula cost
8 per student in each cost grouping by dividing the total estimated
9 general fund operating expenditures for the cost grouping by the
10 total adjusted formula students for all local systems in the cost
11 grouping. For the calculation of state aid for school fiscal year
12 1999-00 and for each school fiscal year thereafter, the average
13 formula cost per student in each cost grouping shall not be
14 recalculated for the final calculation of state aid pursuant to
15 section 79-1065. The calculation of total adjusted formula
16 students for purposes of this subdivision shall take into account
17 the requirements of subsection (2) of section 79-1007.01. The
18 total estimated general fund operating expenditures for the cost
19 grouping is equal to the total adjusted general fund operating
20 expenditures for all local systems in the cost grouping multiplied
21 by a cost growth factor. The cost growth factor for each cost
22 grouping is equal to the sum of: (a) One; plus (b) the product of
23 two times the ratio of the difference between the formula students
24 attributable to the cost grouping without weighting or adjustment
25 pursuant to section 79-1007.01 and the average daily membership
26 attributable to the cost grouping for the most recently available
27 complete data year divided by the average daily membership
28 attributable to the cost grouping for the most recently available

1 complete data year, except that the ratio shall not be less than
2 zero; plus (c) the basic allowable growth rate pursuant to
3 subsection (1) of section 79-1025 for the school fiscal year in
4 which the aid is to be distributed; plus (d) the basic allowable
5 growth rate pursuant to subsection (1) of section 79-1025 for the
6 school fiscal year immediately preceding the school fiscal year in
7 which the aid is to be distributed; plus (e) one-half of any
8 additional growth rate allowed by special action of school boards
9 for the school fiscal year in which the aid is to be distributed as
10 determined for the school fiscal year immediately preceding the
11 school fiscal year when aid is to be distributed; plus (f) one-half
12 of any additional growth rate allowed by special action of the
13 school boards for the school fiscal year immediately preceding the
14 school fiscal year when the aid is to be distributed; and

15 (3) The department shall calculate the average formula
16 cost per student in each cost grouping for the expenditures
17 described in subsection (2) of section 79-1025 by dividing the
18 estimate of such expenditures for the cost grouping by the total
19 adjusted formula students for all local systems in the cost
20 grouping. For the calculation of state aid for school fiscal year
21 1999-00 and for each school fiscal year thereafter, the average
22 formula cost per student in each cost grouping shall not be
23 recalculated for the final calculation of state aid pursuant to
24 section 79-1065. The calculation of total adjusted formula
25 students for purposes of this subdivision shall take into account
26 the requirements of subsection (2) of section 79-1007.01. The
27 estimate of expenditures described in subsection (2) of section
28 79-1025 for the cost grouping is equal to the total of such

1 expenditures for all local systems in the cost grouping multiplied
2 by a cost growth factor. The cost growth factor for each cost
3 grouping is equal to the sum of: (a) One; plus (b) the product of
4 two times the ratio of the difference between the formula students
5 attributable to the cost grouping without weighting or adjustment
6 pursuant to section 79-1007.01 and the average daily membership
7 attributable to the cost grouping for the most recently available
8 complete data year divided by the average daily membership
9 attributable to the cost grouping for the most recently available
10 complete data year, except that the ratio shall not be less than
11 zero; plus (c) the basic allowable growth rate pursuant to
12 subsection (2) of section 79-1025 for the school fiscal year in
13 which the aid is to be distributed; plus (d) the basic allowable
14 growth rate pursuant to subsection (2) of section 79-1025 for the
15 school fiscal year immediately preceding the school fiscal year in
16 which the aid is to be distributed; plus (e) one-half of any
17 additional growth rate allowed by special action of school boards
18 for the school fiscal year in which the aid is to be distributed as
19 determined for the school fiscal year immediately preceding the
20 school fiscal year when aid is to be distributed; plus (f) one-half
21 of any additional growth rate allowed by special action of the
22 school boards for the school fiscal year immediately preceding the
23 school fiscal year when the aid is to be distributed; and

24 (4) Each local system's formula need will be equal to the
25 local system's transportation allowance plus the local system's
26 special receipts allowance plus the product of the local system's
27 adjusted formula students multiplied by the average formula ~~cost~~
28 costs per student calculated under subdivisions (2) and (3) of this

1 section in the local system's cost grouping. The calculation of
2 total adjusted formula students for purposes of this subdivision
3 shall take into account the requirements of subsection (2) of
4 section 79-1007.01.

5 Sec. 3. Section 79-1025, Revised Statutes Supplement,
6 2000, is amended to read:

7 79-1025. The (1) Except as provided in subsections (2)
8 and (3) of this section, the basic allowable growth rate for
9 general fund expenditures other than expenditures for special
10 education shall be the base limitation established under section
11 77-3446 percentage increase in the previous twelve months of the
12 components of the Consumer Price Index which include transportation
13 costs, utility costs, and supply costs and the allowable growth
14 range shall be from the base limitation basic allowable growth rate
15 to two percent above the base limitation basic allowable growth
16 rate. If the index described in this subsection is discontinued or
17 replaced, a substitute index published by the United States
18 Department of Labor shall be selected by the Commissioner of
19 Education, which index shall be a reasonably representative
20 measurement of transportation, utility, and supply costs.

21 (2) The basic allowable growth rate for expenditures for
22 employee compensation shall be one percent plus the percentage
23 change in the Consumer Price Index for Urban Wage Earners and
24 Clerical Workers published by the United States Department of Labor
25 for the preceding twelve months, and the allowable growth range
26 shall be from the basic allowable growth rate to two percent above
27 the basic allowable growth rate. Such percentage shall be
28 determined by the Commissioner of Education upon release of the

1 Consumer Price Index for Urban Wage Earners and Clerical Workers by
2 the United States Department of Labor. If the index described in
3 this subsection is discontinued or replaced, a substitute index
4 published by the United States Department of Labor shall be
5 selected by the Commissioner of Education, which index shall be a
6 reasonably representative measurement of the cost of living for
7 school employees. For purposes of this subsection, employee
8 compensation includes, but is not limited to, salary, federal and
9 state taxes, health, life, and disability insurance premiums, and
10 retirement, paid by or on behalf of such employees.

11 (3) The budget authority for special education for all
12 classes of school districts shall be the actual anticipated
13 expenditures for special education subject to the approval of the
14 state board. Such budget authority and funds generated pursuant to
15 such budget authority shall be used only for special education
16 expenditures.

17 Sec. 4. Section 79-1026, Revised Statutes Supplement,
18 2000, is amended to read:

19 79-1026. On or before April 1, 1999, and on or before
20 February 1 for each year thereafter, the department shall determine
21 and certify to each Class II, III, IV, V, or VI district an
22 applicable allowable growth ~~percentage~~ percentages carried out at
23 least four decimal places for each local system as follows:

24 (1) For each school fiscal year, the department shall
25 determine a target budget level for expenditures described in
26 subsection (1) of section 79-1025 and a target budget level for
27 expenditures described in subsection (2) of such section for each
28 local system by multiplying the adjusted formula students as

1 calculated pursuant to section 79-1007.01 by the cost grouping cost
2 per student as calculated under section 79-1007.02. The sum of
3 such product and the local system's special receipts allowance and
4 transportation allowance shall be each local system's target budget
5 level;

6 (2) The department shall establish a target budget level
7 ~~range~~ ranges of general fund operating ~~expenditure~~ levels
8 expenditures for the target budget levels described in subdivision
9 (1) of this section for each school fiscal year for each local
10 system. The target budget level ranges ~~which~~ shall begin at twenty
11 percent less than ~~the~~ each target budget level and end at ~~the~~ each
12 target budget level. The beginning point of ~~the~~ each range shall
13 be assigned a number equal to the maximum allowable growth rate for
14 such expenditures established in section 79-1025, and the end point
15 of ~~the~~ each range shall be assigned a number equal to the basic
16 allowable growth rate as prescribed in such section such that the
17 lower end of ~~the~~ each range shall be assigned the maximum allowable
18 growth rate and the higher end of ~~the~~ each range shall be assigned
19 the basic allowable growth rate; and

20 (3) For each school fiscal year, each local system's
21 general fund operating expenditures described in subdivision (1) or
22 (2) of section 79-1025 shall be compared to ~~its~~ the appropriate
23 target budget level along the appropriate range described in
24 subdivision (2) of this section to arrive at ~~an~~ applicable
25 allowable growth ~~rate~~ rates as follows: If ~~each local system's~~ such
26 general fund operating expenditures fall below the lower end of the
27 appropriate range, such applicable allowable growth rate shall be
28 the maximum growth rate identified in section 79-1025. If ~~each~~

1 ~~local system's~~ such general fund operating expenditures are greater
2 than the higher end of the applicable range, the ~~local system's~~
3 allowable growth rate shall be the basic growth rate identified in
4 such section. If ~~each local system's~~ such general fund operating
5 expenditures fall between the lower end and the higher end of the
6 appropriate range, the department shall use a linear interpolation
7 calculation between the end points of ~~the~~ each range to arrive at
8 the applicable allowable growth ~~rate~~ rates for the local system.

9 Sec. 5. Section 79-1029, Revised Statutes Supplement,
10 2000, is amended to read:

11 79-1029. (1) A Class II, III, IV, V, or VI district may
12 exceed one or both of the basic allowable growth ~~rate~~ rates
13 prescribed in section 79-1025 upon an affirmative vote of at least
14 seventy-five percent of the board. The total growth shall not
15 exceed the applicable allowable growth ~~percentage~~ percentages
16 certified for the local system under section 79-1026 plus one
17 percent. The vote shall be taken at a public meeting of the board
18 following a special public hearing called for the purpose of
19 receiving testimony on such proposed increase. The board shall
20 give at least five calendar days' notice of such public hearing and
21 shall publish such notice at least once in a newspaper of general
22 circulation in the local system.

23 (2) A Class II, III, IV, V, or VI district may exceed one
24 or both of the applicable allowable growth ~~percentage~~ percentages
25 prescribed in section 79-1026 by an amount approved by a majority
26 of legal voters voting on the issue at a primary, general, or
27 special election called for such purpose upon the recommendation of
28 the board or upon the receipt by the county clerk or election

1 commissioner of a petition requesting an election signed by at
2 least five percent of the legal voters of the district. The
3 recommendation of the board or the petition of the legal voters
4 shall include the amount and percentage by which the board would
5 increase ~~its~~ the applicable general fund budget or budgets of
6 expenditures for the ensuing school year over and above the
7 applicable current year's general fund budget or budgets of
8 expenditures. The county clerk or election commissioner shall
9 place the question on the primary or general election ballot or
10 call for a special election on the issue after the receipt of such
11 board recommendation or legal voter petition. The election shall
12 be held pursuant to the Election Act or section 77-3444, and all
13 costs for a special election shall be paid by the district. A vote
14 ~~to exceed the applicable allowable growth percentage~~ described in
15 this subsection may be approved on the same question as a vote to
16 exceed the levy limits provided in section 77-3444.

17 Sec. 6. Section 79-1108.02, Revised Statutes Supplement,
18 2000, is amended to read:

19 79-1108.02. (1) Beginning with school fiscal year
20 1998-99, the Legislature shall appropriate funds to be distributed
21 by the department pursuant to subsections (2) and (3) of this
22 section to local systems as defined in section 79-1003 annually on
23 or before October 15. It is the intent of the Legislature to
24 appropriate, for FY1998-99, six million dollars and, for FY1999-00
25 and each fiscal year thereafter, the amount of the previous year's
26 appropriation increased by the percentage growth in identified
27 participating students plus the basic allowable growth rate ~~in~~
28 described in subsection (2) of section 79-1025, to carry out this

1 section.

2 (2) For school fiscal years through 2000-01, five percent
3 of the appropriation under subsection (1) of this section shall be
4 reserved for distribution as grants to local systems for startup
5 costs as defined by the State Board of Education. The funds
6 distributed pursuant to this subsection shall be distributed based
7 on a pro rata share of the eligible costs submitted in grant
8 applications.

9 (3) Local systems may apply to the department for base
10 funds and matching funds pursuant to this section to be spent on
11 approved accelerated or differentiated curriculum programs. Each
12 eligible local system shall receive one-tenth of one percent of the
13 appropriation as base funds plus a pro rata share of the remainder
14 of the appropriation based on identified students participating in
15 an accelerated or differentiated curriculum program, up to ten
16 percent of the prior year's fall membership as defined in section
17 79-1003, as matching funds. Eligible local systems shall:

18 (a) Provide an approved accelerated or differentiated
19 curriculum program for students identified as learners with high
20 ability;

21 (b) Provide funds from other sources for the approved
22 accelerated or differentiated curriculum program greater than or
23 equal to fifty percent of the matching funds received pursuant to
24 this subsection;

25 (c) Provide an accounting of the funds received pursuant
26 to this section, funds required by subdivision (b) of this
27 subsection, and the total cost of the program on or before August 1
28 of the year following the receipt of funds in a manner prescribed

1 by the department, not to exceed one report per year;

2 (d) Provide data regarding the academic progress of
3 students participating in the accelerated or differentiated
4 curriculum program in a manner prescribed by the department, not to
5 exceed one report per year; and

6 (e) Include identified students from Class I districts
7 that are part of the local system in the accelerated or
8 differentiated curriculum program.

9 If a local system will not be providing the necessary
10 matching funds pursuant to subdivision (b) of this subsection, the
11 local system shall request a reduction in the amount received
12 pursuant to this subsection such that the local system will be in
13 compliance with such subdivision. Local systems not complying with
14 the requirements of this subsection shall not be eligible local
15 systems in the following year.

16 Sec. 7. Section 79-1241.01, Revised Statutes Supplement,
17 2000, is amended to read:

18 79-1241.01. It is the intent of the Legislature to
19 appropriate nine million seven hundred thousand dollars from the
20 General Fund for FY1998-99 to be distributed pursuant to section
21 79-1241 for school fiscal year 1998-99. It is the intent of the
22 Legislature to appropriate for FY1999-00 and each fiscal year
23 thereafter the amount appropriated in the prior year increased by
24 the percentage growth in the fall membership of member districts
25 plus the basic allowable growth rate described in subsection (2) of
26 section 79-1025. For purposes of this section, fall membership has
27 the same meaning as in section 79-1003. Fall membership data used
28 to compute growth shall be from the two most recently available

1 fall membership reports.

2 Sec. 8. Section 79-1243, Revised Statutes Supplement,
3 2000, is amended to read:

4 79-1243. It is the intent of the Legislature to
5 appropriate three million dollars for FY1999-00 for use by
6 educational service units for technology infrastructure as defined
7 in section 79-1201.01. It is the intent of the Legislature to
8 appropriate for FY2000-01 and each fiscal year thereafter the
9 amount appropriated in the prior year increased by the percentage
10 growth in the fall membership of member districts plus the basic
11 allowable growth rate described in subsection (2) of section
12 79-1025. For purposes of this section, fall membership has the
13 same meaning as in section 79-1003. Fall membership data used to
14 compute growth shall be from the two most recently available fall
15 membership reports. The funds shall be distributed as provided in
16 section 79-1241.

17 Sec. 9. Original sections 79-1007.01, 79-1007.02,
18 79-1025, 79-1026, 79-1029, 79-1108.02, 79-1241.01, and 79-1243,
19 Revised Statutes Supplement, 2000, are repealed.