

LEGISLATIVE BILL 1134

Approved by the Governor April 8, 1998

Introduced by Janssen, 15; Bromm, 23; Hartnett, 45; Hudkins, 21; Dw. Pedersen, 39; Robinson, 16; Stuhr, 24; Vrtiska, 1

AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1001, 79-1003, 79-1010, and 84-612, Revised Statutes Supplement, 1997; to change provisions relating to reorganization incentives; to create a fund; to provide for transfers from the General Fund and the Cash Reserve Fund; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 79-1001, Revised Statutes Supplement, 1997, is amended to read:

79-1001. Sections 79-1001 to 79-1033 and section 3 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 2. Section 79-1003, Revised Statutes Supplement, 1997, is amended to read:

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

(1) Adjusted general fund operating expenditures means general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the transportation allowance and, for purposes of state aid paid in school fiscal year 1998-99 and each school fiscal year thereafter, minus the special education allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each district in the state, for school fiscal years before school fiscal year 1998-99, and of each local system in the state, for school fiscal year 1998-99 and each school fiscal year thereafter, adjusted pursuant to the adjustment factors described in section 79-1016. For the calculation of state aid to be paid in school year 1995-96, adjusted valuation means the adjusted valuation for the property tax year ending during the school year in which the aid based upon that value is to be paid. For calculation of state aid to be paid in school year 1996-97 and each school year thereafter, adjusted valuation means the adjusted valuation for the property tax year ending during the school year immediately preceding the school year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015, adjusted valuation does not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(3) Allocated income tax funds means the amount of assistance paid to a district pursuant to section 79-1004 or 79-1005 and, for school fiscal year 1998-99 and each school fiscal year thereafter, as adjusted by the minimum levy adjustment pursuant to section 79-1008.02;

(4) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the district for school fiscal years before school fiscal year 1998-99, and for school fiscal year 1998-99 and each school fiscal year thereafter, attributable to the local system, as provided in each district's annual statistical summary and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(5) Average daily membership tiers means groupings of districts by the number of students comprising a district's average daily membership in a specified grade range;

(6) Base fiscal year means (a) for school district reorganizations which occurred prior to the 1995-96 school fiscal year, the first fiscal year in which all data sources reflect the reorganized district as a single district for the calculation of state aid, ~~and~~ (b) for school district reorganizations which occur during ~~or after the 1995-96~~ the 1995-96 school fiscal year or the 1996-97 school fiscal year, the second fiscal year following the fiscal year in which the reorganization occurred, and (c) for school district reorganizations which occur during or after the 1997-98 school fiscal year, the first school fiscal year following the fiscal year in which the reorganization occurred;

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

(8) Categorical federal funds means funds limited to a specific

purpose by federal law, including, but not limited to, Chapter 1 funds, Chapter 2 funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, and Head Start funds;

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

(10) Current school year means the current school fiscal year;

(11) Department means the State Department of Education;

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

(13) Ensuing school year means the school year following the current school year;

(14) Equalization aid means the amount of assistance paid to a district pursuant to sections 79-1008 to 79-1022;

(15) Fall membership means the total membership in kindergarten through grade twelve attributable to the district for school fiscal years before school fiscal year 1998-99, and for school fiscal year 1998-99 and each school fiscal year thereafter, attributable to the local system, as reported on the fall school district membership reports for the local system pursuant to section 79-528;

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

(17) Formula students means (a) for state aid certified pursuant to section 79-1022, the sum of fall membership from the school year immediately preceding the school year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the most recently available complete data year and the two school years prior to the most recently available complete data year, and tuitioned students from the school year immediately preceding the school year in which the aid is to be paid and (b) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership and tuitioned students from the school year immediately preceding the school year in which the aid was paid;

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

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

(20) General fund expenditures means all expenditures from the general fund;

(21) General fund operating expenditures, means the total general fund expenditures minus categorical funds, tuition paid, transportation fees paid to other districts, adult education, summer school, community services, redemption of the principal portion of general fund debt service, and transfers from other funds into the general fund. (a) For state aid to be paid for school years through 1997-98, general fund operating expenditures shall be as reported in the annual financial reports from the most recently available complete data year, and (b)(i) for state aid certified pursuant to section 79-1022 and budget limitations certified pursuant to section 79-1026 for school year 1998-99 and each year thereafter, general fund operating expenditures shall equal the general fund operating expenditures from the most recently available complete data year, adjusted by the average annual change in each district's general fund operating expenditures for the most recently available complete data year and the two school years immediately preceding the most recently available complete data year and (ii) for final calculation of state aid pursuant to section 79-1065, general fund operating expenditures shall be as reported in the annual financial reports from the most recently available complete data year;

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

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

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

(25) Local system means a Class VI district and the associated Class I districts or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school

districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

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

(27) Most recently available complete data year means the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district, and adjusted valuation data are available;

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

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

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

(31) Special education allowance means the amount of special education receipts included in local system formula resources under subdivisions (7) and (16) of section 79-1018.01;

(32) State aid means the amount of assistance paid to a district pursuant to sections 79-1005 and 79-1007 to 79-1022 and for school fiscal year 1998-99 and each school fiscal year thereafter, pursuant to sections 79-1005, 79-1005.01, and 79-1007 to 79-1022;

(33) State board means the State Board of Education;

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

(35) Transportation allowance means; (a) For state aid to be paid through school year 1997-98, the lesser of (i) the general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 79-611, in the most recently available complete data year, but not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures or (ii) the number of miles traveled in the most recently available complete data year by vehicles owned, leased, or contracted by the district for the purpose of regular route transportation multiplied by four hundred percent of the mileage rate established by the Department of Administrative Services pursuant to section 81-1176 as of January 1 of the most recently available complete data year added to in lieu of transportation expenditures pursuant to section 79-611, from the same data year. For school fiscal year 1996-97, the determination of the transportation allowance shall be based on the best available information previously collected by the State Department of Education and shall not include in lieu of transportation expenditures under section 79-611; and (b) for state aid to be paid in school year 1998-99 and each year thereafter, the lesser of (i) the general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 79-611 in the most recently available complete data year, but not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures, except that for state aid certified pursuant to section 79-1022 and budget limitations certified pursuant to section 79-1026, the general fund operating expenditures for regular route transportation and in lieu of transportation expenditures shall equal such expenditures from the most recently available complete data year, adjusted by the average annual change in each district's such expenditures for the most recently available complete data year and the two school years immediately preceding the most recently available complete data year or (ii) the number of miles traveled in the most recently available complete data year by vehicles owned, leased, or contracted by the district for the purpose of regular route transportation multiplied by four hundred percent of the mileage rate established by the Department of Administrative Services pursuant to section 81-1176 as of January 1 of the most recently available complete data year added to in lieu of transportation expenditures pursuant to section 79-611 from the same data year or, for state aid certified pursuant to section 79-1022 and budget limitations certified pursuant to section 79-1026, the in lieu of transportation expenditures for this subdivision shall equal such expenditures from the most recently available complete data year, adjusted by the average annual change in each district's such expenditures for the most recently available complete data year and the two school years immediately preceding the most recently available complete data year; and

(36) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency.

Sec. 3. The Reorganized school Assistance Fund is created. The fund shall receive a transfer of two million dollars from the Cash Reserve Fund on or before September 1, 1998, pursuant to section 84-612. Any money in the Reorganized School Assistance Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund shall be used to make base fiscal year incentive payments pursuant to subsection (6) of section 79-1010 and to make transfers to the Cash Reserve Fund.

The State Treasurer shall transfer two million dollars from the General Fund to the Reorganized School Assistance Fund on or before September 1, 1999, and the two million dollars shall be immediately transferred from the Reorganized School Assistance Fund to the Cash Reserve Fund. The Reorganization School Assistance Fund shall terminate on September 2, 1999, and any money remaining in the fund shall revert to the General Fund. It is the intent of the Legislature to reduce the appropriation to the Tax Equity and Educational Opportunities Fund for fiscal year 1999-00 by two million dollars.

Sec. 4. Section 79-1010, Revised Statutes Supplement, 1997, is amended to read:

79-1010. (1) To encourage consolidation of school districts, incentives shall be paid to reorganized districts in certain size ranges for a three-year period to reward the reorganized districts for their efforts to increase efficiency in the delivery of educational services. This section shall only apply to consolidations when the order to change boundaries issued pursuant to subsection (1) of section 79-479, takes effect after May 31, 1996, and before August 2, 2001.

(2) To qualify for incentive payments under this section, the consolidation must be approved for incentive payments by the State Committee for the Reorganization of School Districts. 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. 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. The state committee shall, within thirty days, approve or disapprove incentive payments. 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 by the state committee, a reorganization study, including efficiency, demographic, curriculum, facility, financial, and community components, must have been completed. If a study containing such elements was completed and the reorganization plan 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) 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 year immediately preceding the first year the boundary change is in effect and the average daily membership each affected district would have had following the boundary change if it had occurred in the school year immediately preceding the first year the boundary change is in effect. The reorganized school districts existing after the qualified boundary change 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	Average daily membership range with boundary change	Incentive payment per student who moves from the average daily membership range before consolidation to the
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		average daily membership range with boundary change
.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	Average daily membership range with boundary change	Incentive payment per student who moves from the average daily membership range before consoli- dation to the average daily member- ship range with boundary change
.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	Average daily membership range with boundary change	Incentive payment per student who moves from the average daily membership range before consoli- dation to the average daily member- ship range with boundary change
.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

(5) For school fiscal years 1999-00, 2000-01, and 2001-02, two

million dollars shall be set aside for base fiscal year incentive payments pursuant to subsection (6) of this section and shall be subtracted from the appropriation to the Tax Equity and Educational Opportunities Fund prior to any calculations affecting the distribution of equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act. The Legislature shall reappropriate any unexpended balances of the set-aside funds to the Tax Equity and Educational Opportunities Fund for the certification of state aid following the school fiscal year in which the incentives were paid. All other incentive payments pursuant to this section shall be paid directly to the consolidated district from the Tax Equity and Educational Opportunities Fund. The payments and shall be subtracted from the appropriation prior to any calculations affecting the distribution of equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act.

(6) Unless previously included in the certification of state aid, incentive payments for the base fiscal year shall be calculated as of August 2 immediately preceding the base fiscal year and shall be paid directly to the consolidated district from the Reorganized School Assistance Fund for the 1998-99 school fiscal year and from the two million dollars set aside from the Tax Equity and Educational Opportunities Fund pursuant to subsection (5) of this section for school fiscal years 1999-00, 2000-01, and 2001-02. 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 incentive payments to school districts for that school fiscal year exceeds the balance of Reorganized School Assistance Fund for 1998-99 or two million dollars for school fiscal year 1999-00, 2000-01, or 2001-02, the incentive payments under this subsection shall be reduced proportionately so that the total amount of incentive payments to school districts equals the balance of the Reorganized School Assistance Fund or the two million dollars, whichever is applicable. The incentive 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 subsection after July 1, 2002.

(7) The payments shall be included in the distribution of state aid for each of the first three consecutive school 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. If the total amount of incentive payments to school districts for that 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. The payments shall not be included in district local system formula resources as calculated under section ~~79-1018~~ 79-1018.01. No incentive payments shall be made pursuant to this section after July 1, ~~2006~~ 2004.

Sec. 5. Section 84-612, Revised Statute; Supplement, 1997, is amended to read:

84-612. (1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred.

(3) Any transfers made pursuant to subsection (2) of this section shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(4) On or before August 1, 1994, the State Treasurer shall transfer six million dollars from the Cash Reserve Fund to the Job Training Cash Fund.

(5) On June 15, 1999, the State Treasurer shall transfer forty million dollars from the Cash Reserve Fund to the General Fund.

(6) On or before September 1, 1998, the State Treasurer shall transfer two million dollars from the Cash Reserve Fund to the Reorganized School Assistance Fund.

Sec. 6. Original sections 79-1001, 79-1003, 79-1010, and 84-612, Revised Statutes Supplement, 1997, are repealed.