

LEGISLATIVE BILL 5

Approved by the Governor November 20, 2009

Introduced by Education Committee: Adams, 24, Chairperson; Avery, 28; Giese, 17; Haar, 21; Howard, 9; Sullivan, 41; Lautenbaugh, 18.

FOR AN ACT relating to state aid to schools; to amend sections 79-1005.01, 79-1007.15, 79-1007.19, and 79-1008.01, Reissue Revised Statutes of Nebraska, and sections 77-3446, 79-1001, 79-1003, 79-1007.11, 79-1007.23, and 79-1023, Revised Statutes Supplement, 2009; to redefine terms; to change and eliminate provisions relating to disbursement of income tax receipts, calculation of formula need, elementary site allowance, teacher education adjustment, and instructional time allowance and expenditure limits as prescribed; to provide for calculation of a teacher education allowance; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 77-3446, Revised Statutes Supplement, 2009, is amended to read:

77-3446 Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2009-10, 2011-12, and ~~through~~ 2012-13 is one and one-half percent and the base limitation for school districts for school fiscal year 2010-11 is twenty-five hundredths of one percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Sec. 2. Section 79-1001, Revised Statutes Supplement, 2009, is amended to read:

79-1001 Sections 79-1001 to 79-1033 and section 8 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 3. Section 79-1003, Revised Statutes Supplement, 2009, is amended to read:

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

(1) Adjusted general fund operating expenditures means (a) for school fiscal years before school fiscal year 2007-08, general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the transportation allowance and minus the special receipts allowance, (b) for school fiscal year 2007-08, general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the sum of the transportation, special receipts, and distance education and telecommunications allowances, (c) for school fiscal year 2008-09, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, and focus school and program allowance, (d) for school fiscal years ~~2009-10 through 2012-13, year 2009-10,~~ the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance

education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance, and ~~(e)~~ (f) for school fiscal year 2013-14 and each school fiscal year thereafter, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each local system in the state, adjusted pursuant to the adjustment factors described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal 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 79-1015.01, 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 local system pursuant to section 79-1005.01 or 79-1005.02 as adjusted by the minimum levy adjustment pursuant to section 79-1008.02;

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

(5) Average daily membership means the average daily membership for grades kindergarten through twelve 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;

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

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

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

(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) Department means the State Department of Education;

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

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

(13) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23, 79-1008.01 to 79-1022, and 79-1022.02 and section 8 of this act;

(14) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

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

(16) Formula students means:

(a) For school fiscal years prior to school fiscal year 2008-09, (i) for state aid certified pursuant to section 79-1022, the sum of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid and the prior two school fiscal years, plus qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and (ii) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus qualified early childhood education average daily membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid was paid; and

(b) For school fiscal year 2008-09 and each school fiscal year thereafter, (i) for state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5 and (ii) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(17) Free lunch and free milk student means a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be 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 budget of disbursements and transfers 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 and the calculation pursuant to subdivision (2) of section 79-1027.01, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

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

(21) General fund operating expenditures means:

(a) For state aid calculated for school fiscal years prior to school fiscal year 2008-09, 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, retirement incentive plans, staff development assistance, and transfers from other funds into the general fund for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid as reported on the annual financial report prior to December 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(b) For state aid calculated for school fiscal year 2008-09, as reported for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid on the annual financial report submitted prior to December 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, and federal impact aid, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, and (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund;

(c) For state aid calculated for school fiscal year 2009-10, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations,

individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, and federal impact aid, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, and (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred; and

(d) For state aid calculated for school fiscal year 2010-11 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (v) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, and (vi) (A) expenditures in school fiscal years 2009-10 through 2013-14 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (B) expenditures in school fiscal years 2009-10 through 2013-14 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the Class V School Employees Retirement System to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent.

For purposes of this subdivision (21) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

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

(23) 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;

(24) 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;

(25) Limited English proficiency students means (a) for school fiscal years prior to school fiscal year 2009-10, the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid and (b) for school fiscal year 2009-10 and each school fiscal year thereafter, the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid plus the difference of such students with limited English proficiency minus the average number of limited English proficiency students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(26) Local system means a learning community for purposes of calculation of state aid for the second full school fiscal year after becoming a learning community and each school fiscal year thereafter, a unified system,

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;

(27) Low-income child means (a) for school fiscal years prior to 2008-09, 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 and (b) for school fiscal year 2008-09 and each school fiscal year thereafter, a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income that would allow a student from a family of four people to be a free lunch and free milk student during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

(28) Low-income students means the number of low-income children within the district multiplied by the ratio of the formula students in the district divided by the total children under nineteen years of age residing in the district as derived from income tax information;

(29) 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 for the calendar year in which the majority of the school fiscal year falls, and adjusted valuation data are available;

(30) Poverty students means (a) for school fiscal years prior to school fiscal year 2009-10, the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, and (b) for school fiscal year 2009-10 and each school fiscal year thereafter, the number of low-income students or the number of students who are free lunch and free milk students in a district plus the difference of the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(31) Qualified early childhood education average daily membership means the product of the average daily membership for school fiscal year 2006-07 and each school fiscal year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(32) Qualified early childhood education fall membership means the product of membership on the last Friday in September 2006 and each year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

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

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

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

(36) Sparse local system means a local system that is not a very

sparse local system but which meets the following criteria:

(a) (i) Less than two students per square mile in the county in which each high school is located, based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than ten miles between each high school attendance center and the next closest high school attendance center on paved roads;

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

(c) (i) Less than one and one-half formula students per square mile in the local system and (ii) more than two hundred seventy-five square miles in the local system; or

(d) (i) Less than two formula students per square mile in the local system and (ii) the local system includes an area equal to ninety-five percent or more of the square miles in the largest county in which a high school attendance center is located in the local system;

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

(38) Special grant funds means the budgeted receipts for grants, including, but not limited to, Title I funds, Title VI funds, funds from the Education Innovation Fund, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

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

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

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

(42) Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

(43) Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

(44) Teacher has the definition found in section 79-101;

(45) Temporary aid adjustment factor means (a) for school fiscal years before school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, the local system's special receipts allowance, and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping and (b) for school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping;

(46) 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; and

(47) Very sparse local system means a local system that has:

(a) (i) Less than one-half student per square mile in each county in which each high school attendance center is located based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads; or

(b) (i) More than four hundred fifty square miles in the local system, (ii) less than one-half student per square mile in the local system, and (iii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads.

Sec. 4. Section 79-1005.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1005.01 For state aid calculated for all school fiscal years except school fiscal years 2002-03 through 2007-08:

(1) An amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93

shall be disbursed as option payments as determined under section 79-1009 and as allocated income tax funds as determined in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in section 79-1008.02. Funds not distributed as allocated income tax funds due to minimum levy adjustments shall not increase the amount available to local systems for distribution as allocated income tax funds;

(2) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system. The 1996 income tax liability of resident individuals of Class I districts that are affiliated with multiple high school districts shall be divided between local systems based on the percentage of the Class I district's valuation affiliated with each high school district; and

(3) Using the data certified by the Tax Commissioner pursuant to subdivision (2) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall be an amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 minus the total amount paid for option students pursuant to section 79-1009 and, for aid calculated for school fiscal year ~~2008-09~~, 2010-11, minus twenty million dollars with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subdivision (2) of this section. Each local system's allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subdivision (2) of this section.

Sec. 5. Section 79-1007.11, Revised Statutes Supplement, 2009, is amended to read:

79-1007.11 (1) Except as otherwise provided in this section, for school fiscal year 2008-09, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, distance education and telecommunications allowance, averaging adjustment, and teacher education adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

(2) Except as otherwise provided in this section, for school fiscal years ~~2009-10 and 2010-11~~, year 2009-10, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, distance education and telecommunications allowance, averaging adjustment, teacher education adjustment, new learning community transportation adjustment, student growth adjustment, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

(3) Except as otherwise provided in this section, for school fiscal year 2010-11, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, new learning community transportation adjustment, student growth adjustment, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, and local choice adjustment.

~~(3)~~ (4) Except as otherwise provided in this section, for school fiscal years 2011-12 and 2012-13, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, elementary class size allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, ~~teacher education adjustment~~, new learning community transportation adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, any negative student

growth adjustment correction, and local choice adjustment.

~~(4)~~ (5) Except as otherwise provided in this section, for school fiscal year 2013-14 and each school fiscal year thereafter, each school district's formula need shall equal the difference of the sum of the school district's basic funding, poverty allowance, limited English proficiency allowance, focus school and program allowance, summer school allowance, special receipts allowance, transportation allowance, elementary site allowance, instructional time allowance, teacher education allowance, distance education and telecommunications allowance, averaging adjustment, ~~teacher education adjustment~~, new learning community transportation adjustment, student growth adjustment, any positive student growth adjustment correction, and new school adjustment, minus the sum of the limited English proficiency allowance correction, poverty allowance correction, any negative student growth adjustment correction, and local choice adjustment.

~~(5)~~ (6) If the formula need calculated for a school district pursuant to subsections (1) through ~~(4)~~ (5) of this section is less than one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

~~(6)~~ (7) Except as provided in subsection ~~(8)~~ (9) of this section, if the formula need calculated for a school district pursuant to subsections (1) through ~~(4)~~ (5) of this section is more than one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, the formula need for such district shall equal one hundred twelve percent of the formula need for such district for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated, except that the formula need shall not be reduced pursuant to this subsection for any district (a) receiving a student growth adjustment for the school fiscal year for which aid is being calculated or (b) for school fiscal year 2008-09, for which the formula students for the certification of aid pursuant to section 79-1022 for school fiscal year 2008-09 minus the formula students for the certification of aid pursuant to section 79-1022 for school fiscal year 2007-08 equals at least the greater of twenty-five students or one percent of the formula students for the certification of aid pursuant to section 79-1022 for school fiscal year 2007-08.

~~(7)~~ (8) For purposes of subsections ~~(5)~~ and (6) and (7) of this section, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be the formula need used in the final calculation of aid pursuant to section 79-1065 and for districts that were affected by a reorganization with an effective date in the calendar year preceding the calendar year in which aid is certified for the school fiscal year for which aid is being calculated, the formula need for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated shall be attributed to the affected school districts based on information provided to the department by the school districts or proportionally based on the adjusted valuation transferred if sufficient information has not been provided to the department.

~~(8)~~ (9) For state aid calculated for the first full school fiscal year of a new learning community, if the formula need calculated for a member school district pursuant to subsections (1) through ~~(5)~~ (6) of this section is less than the sum of the school district's state aid certified for the school fiscal year immediately preceding the first full school fiscal year of the learning community plus the school district's other actual receipts included in local system formula resources pursuant to section 79-1018.01 for such school fiscal year plus the product of the school district's general fund levy for such school fiscal year up to one dollar and five cents multiplied by the school district's assessed valuation for such school fiscal year, the formula need for such school district for the school fiscal year for which aid is being calculated shall equal such sum.

Sec. 6. Section 79-1007.15, Reissue Revised Statutes of Nebraska, is amended to read:

79-1007.15 (1) For school fiscal year 2008-09, the department shall calculate an elementary site allowance for any district in which (a) the district has more than one elementary attendance site, (b) at least one of the elementary attendance sites does not offer any other grades, (c) the square miles in the district divided by the number of elementary attendance sites in the district equals one hundred square miles or more per elementary attendance site, and (d) the fall membership in elementary site grades in the district divided by the number of elementary site grades then divided again by the

number of elementary attendance sites equals fifteen or fewer students per grade per elementary attendance site. Qualifying elementary attendance sites for such districts shall only offer elementary site grades and shall have an average of fifteen or fewer students per grade in the fall membership.

(2) For school fiscal year 2009-10 and each school fiscal year thereafter, the department shall calculate an elementary site allowance for any district which has at least one qualifying elementary attendance site and which submits the information required for the calculation on a form prescribed by the department on or before October 15 of the school fiscal year preceding the school fiscal year for which aid is being calculated. A qualifying elementary attendance site shall be an elementary attendance site, in a district with multiple elementary attendance sites, which does not have another elementary attendance site within seven miles in the same school district or which is the only public elementary attendance site located in an incorporated city or village.

(3) The elementary site allowance for each qualifying district shall equal the sum of the elementary site allowances for each qualifying elementary attendance site in the district. The elementary site allowance for each qualifying elementary attendance site shall equal five hundred percent of the statewide average general fund operating expenditures per formula student multiplied by the result of rounding the ratio of the fall membership attributed to the elementary attendance site divided by eight up to the next whole number if the result was not a whole number, except that if the resulting whole number is greater than the number of elementary grades offered in the elementary attendance site, site grades, the whole number shall be reduced to equal the number of grades offered in the elementary attendance site. elementary site grades.

(4) For purposes of this section:

(a) Each district shall determine which grades are considered elementary site grades, except that (i) all grades designated as elementary site grades shall be offered in each elementary attendance site in the district, without any preference indicated by the school board or any school district administrator for students to attend different elementary attendance sites depending on their elementary site grade level, for the school fiscal year for which aid is being calculated and for each of the five school fiscal years preceding the school fiscal year for which aid is being calculated and (ii) elementary site grades shall not include grades nine, ten, eleven, or twelve;

(b) An elementary attendance site is an attendance site in which elementary site grades are offered;

(c) The primary elementary site shall be the elementary attendance site to which the most formula students are attributed in the district and shall not be a qualifying elementary attendance site; and

(d) Fall membership means the fall membership for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated.

(5) If the elementary attendance site is new or is being reopened after being closed for at least one school year, the requirements of subdivision (4)(a)(i) of this section with respect to preceding school fiscal years shall not apply to school fiscal years in which the elementary attendance site was not in operation.

(6) The department shall determine if the qualifications for the elementary site allowance have been met for each elementary attendance site for which information has been submitted. The department may rely on the information submitted and any other information available to the department, including, but not limited to, past attendance patterns. The state board shall establish a procedure for appeal of decisions of the department to the state board for a final determination.

Sec. 7. Section 79-1007.19, Reissue Revised Statutes of Nebraska, is amended to read:

79-1007.19 For school fiscal year ~~2008-09~~ and each school fiscal year thereafter, years 2008-09 and 2009-10, the department shall calculate a teacher education adjustment for each district as follows:

(1) Teacher education points shall be calculated for each district by the department based upon data from the fall personnel report required pursuant to section 79-804 for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Each full-time equivalent teacher shall (a) be under contract with a school district as required pursuant to section 79-818 and (b) only be counted one time in the awarding of any points pursuant to this section. Each district shall receive one point for each full-time equivalent teacher who has earned and been awarded a master's degree or an education specialist's degree and two points for each full-time

equivalent teacher who has earned and been awarded a doctoral degree;

(2) A teacher education index shall be calculated for each district by dividing the ratio of teacher education points for the district divided by the number of full-time equivalent teachers in the district by the ratio of teacher education points for all districts divided by the number of full-time equivalent teachers in all districts; and

(3) The teacher education adjustment for each district shall equal ten percent ~~for school fiscal years 2008-09 and 2009-10 and thirteen and seventy-five one-hundredths percent for each school fiscal year thereafter~~ of the district's basic funding multiplied by the difference of the product of the district's teacher education index minus one, except that if the result is less than zero, the teacher education adjustment shall equal zero.

Sec. 8. For school fiscal year 2010-11 and each school fiscal year thereafter, the department shall calculate a teacher education allowance for each district as follows:

(1) Teacher education points shall be calculated for each district by the department based upon data from the fall personnel report required pursuant to section 79-804 for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Each full-time equivalent teacher shall (a) be under contract with a school district as required pursuant to section 79-818 and (b) only be counted one time in awarding any points pursuant to this section. Each district shall receive one point for each full-time equivalent teacher who has earned and been awarded a master's degree or an education specialist's degree and two points for each full-time equivalent teacher who has earned and been awarded a doctoral degree;

(2) A teacher education index shall be calculated for each district by dividing the ratio of teacher education points for the district divided by the number of full-time equivalent teachers in the district by the ratio of teacher education points for all districts divided by the number of full-time equivalent teachers in all districts; and

(3) The teacher education allowance for each district shall equal eight and one-half percent of the statewide average general fund operating expenditures per formula student multiplied by the district's formula students and multiplied by the difference of the product of the district's teacher education index minus one, except that if the result is less than zero, the teacher education allowance shall equal zero.

Sec. 9. Section 79-1007.23, Revised Statutes Supplement, 2009, is amended to read:

79-1007.23 For state aid calculated for school fiscal year 2009-10 and each school fiscal year thereafter:

(1) The department shall calculate an instructional time allowance for each district equal to the product of the formula students of such district multiplied by the instructional time factor for such district multiplied by eighty-five percent of the statewide average general fund operating expenditures per formula student;

(2) The instructional time factor shall equal the difference of the ratio of the district's average hours of instruction for each full-time student during the regular school year for the most recently available complete data year divided by: (a) For state aid calculated for school fiscal year 2009-10, the comparison group average hours of instruction for each full-time student during the regular school year for the most recently available complete data year minus one; or (b) for state aid calculated for school fiscal year 2010-11 and each school fiscal year thereafter, the statewide average hours of instruction for each full-time student during the regular school year for the most recently available complete data year minus one, except that if the result is less than zero, the instructional time factor shall equal zero; and

(3) ~~The~~ For school fiscal years 2009-10 and 2010-11, the comparison group average hours of instruction for each full-time student shall be an average of the averages for all school districts in the comparison group. The average hours of instruction shall be defined by the department and shall not include extracurricular activities outside of the regular school day or time designated for students to eat lunch. The statewide average hours of instruction for each full-time student shall be an average of the averages for all school districts; and-

(4) For school fiscal year 2011-12 and each school fiscal year thereafter, the average hours of instruction shall be defined by the department and shall be based on scheduled time for courses and the number of students participating in such courses as reported to the department for the most recently available complete data year. Hours of instruction shall not include extracurricular activities outside of the regular school day or time designated for students to eat lunch. The statewide average hours of

instruction for each student shall be an average of the averages for all school districts.

Sec. 10. Section 79-1008.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1008.01 Except as provided in sections 79-1008.02 to 79-1010, each local system shall receive equalization aid in the amount that the total formula need of each local system, as determined pursuant to sections 79-1007.01 to 79-1007.23 and section 8 of this act, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1018.01.

Sec. 11. Section 79-1023, Revised Statutes Supplement, 2009, is amended to read:

79-1023 (1) On or before June 1, 2009, on or before March 1, 2010, and on or before February 1 of each year thereafter, the department shall determine and certify to each school district the maximum general fund budget of expenditures minus the special education budget of expenditures for the immediately following school fiscal year.

(2) Except as provided in section 79-1028.01, no school district shall have a general fund budget of expenditures minus special grant funds and the special education budget of expenditures more than the greater of (a) the product of the difference of the general fund budget of expenditures minus special grant funds and the special education budget of expenditures for the immediately preceding school fiscal year multiplied by (i) except as otherwise provided in subdivision (a)(ii) of this subsection, the sum of one plus the local system's applicable allowable growth rate or (ii) for school fiscal year 2010-11, the sum of one plus seventy-five hundredths of one percent plus the local system's applicable allowable growth rate or (b)(i) except as otherwise provided in subdivision (b)(ii) of this subsection, the difference of one hundred twenty percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year or (ii) for school fiscal years 2009-10 and 2010-11, the difference of one hundred sixteen and fifteen-hundredths percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year.

Sec. 12. Original sections 79-1005.01, 79-1007.15, 79-1007.19, and 79-1008.01, Reissue Revised Statutes of Nebraska, and sections 77-3446, 79-1001, 79-1003, 79-1007.11, 79-1007.23, and 79-1023, Revised Statutes Supplement, 2009, are repealed.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.