

LEGISLATIVE BILL 713

Approved by the Governor March 26, 1997

Introduced by Bohlke, 33

AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1003, 79-1007, 79-1016, 79-1018, and 79-1022, Reissue Revised Statutes of Nebraska; to redefine terms; to change provisions relating to reports and certification of aid; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 79-1003, Reissue Revised Statutes of Nebraska, 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;

(2) Adjusted valuation means the assessed valuation of taxable property of each district in the state adjusted pursuant to the adjustment factors described in section 79-1016. For the calculation of state aid to be paid in school years 1994-95 and 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;

(4) Average daily membership means the average daily membership for grades kindergarten through twelve as provided in each district's annual financial report and annual statistical summary and, for the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, 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 the first fiscal year in which all data sources reflect the reorganized district as a single district for the calculation of state aid;

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

(8) Categorical federal funds means federal 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 district and, for purposes of sections 79-1001 to 79-1022, the nonresident high school tuition fund of each county;

(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 as reported on the fall school district membership report 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 federal funds, tuition paid, transportation fees paid to other districts, adult education, summer school, school lunch pass-through, 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) 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;

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

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

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

(28) State aid means the amount of assistance paid to a district pursuant to sections 79-1004, 79-1005, and 79-1007 to 79-1022;

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

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

(31) Transportation allowance means: the lesser of - (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 (b) (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

(32) 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. 2. Section 79-1007, Reissue Revised Statutes of Nebraska, is amended to read:

79-1007. For state aid calculated for school fiscal year 1996-97 and each school fiscal year thereafter:

(1) Using data from the annual financial reports and the annual statistical summary reports for the most recently available complete data year except as provided in section 79-1003, the department shall calculate the adjusted tiered cost per student for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve for each district as described in subdivisions (2) through (8) of this section;

(2) Each district's adjusted general fund operating expenditures for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve shall be computed as follows:

(a) The weighted average daily membership for kindergarten shall equal the average daily membership for kindergarten multiplied by five-tenths;

(b) The weighted average daily membership for grades one through six, including full-day kindergarten, shall equal the average daily membership for such grades multiplied by one;

(c) The weighted average daily membership for grades seven and eight shall equal the average daily membership for such grades multiplied by one and two-tenths;

(d) The weighted average daily membership for grades nine through twelve shall equal the average daily membership for such grades multiplied by one and four-tenths; and

(e) The total weighted average daily membership shall equal the sum of grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve weighted average daily membership values.

Each district's adjusted general fund operating expenditures for each grade group shall be calculated by dividing that grade group's weighted average daily membership by the total weighted average daily membership in the district and multiplying the result by the district's total adjusted general fund operating expenditures;

(3) Each district with adjusted general fund operating expenditures in grades one through six, including full-day kindergarten, shall be placed

into a tier based on the following schedule:

Tier	Tier Midpoint	Average Daily Membership Range	
1	50.50	.01 -	101.00
2	143.00	101.01 -	185.00
3	280.00	185.01 -	375.00
4	687.50	375.01 -	1,000.00
5	1,450.00	1,000.01 -	1,900.00
6	8,450.00	1,900.01 -	15,000.00
7	Median average daily membership of tier		15,000.01 and over

The average adjusted general fund operating expenditures per student for grades one through six, including full-day kindergarten, shall be calculated for each tier by adding the total adjusted general fund operating expenditures for such grades for all districts in the tier and dividing by the total daily membership for such grades for all districts in the tier;

(4) Each district with adjusted general fund operating expenditures in grades nine through twelve shall be placed into a tier based on the following schedule:

Tier	Tier Midpoint	Average Daily Membership Range	
1	25.00	.01 -	50.00
2	62.50	50.01 -	75.00
3	87.50	75.01 -	100.00
4	125.00	100.01 -	150.00
5	200.00	150.01 -	250.00
6	375.00	250.01 -	500.00
7	750.00	500.01 -	1,000.00
8	5,500.00	1,000.01 -	10,000.00
9	Median average daily membership of tier		10,000.01 and over

The average adjusted general fund operating expenditures per student for grades nine through twelve shall be calculated for each tier by adding the total adjusted general fund operating expenditures for such grades for all districts in the tier and dividing such sum by the total average daily membership for such grades for all districts in the tier;

(5) Adjusted tiered cost per student values shall be computed for grades one through six, including full-day kindergarten, for each district as follows:

(a) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are less than the tier midpoint of tier 1 for such grades, the adjusted tiered cost per student shall equal the average adjusted general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are greater than the tier midpoint of tier 7 for such grades, the adjusted tiered cost per student for such grades shall equal the average adjusted general fund operating expenditures per student for tier 7; and

(c) For districts with average daily memberships for grades one through six, including full-day kindergarten, which fall on or between the tier midpoints of any two tiers, the adjusted tiered cost per student for such grades shall be calculated by means of a linear transition between the average adjusted general fund operating expenditures per student of the two tiers between whose tier midpoints the districts' average daily memberships for such grades fall;

(6) Adjusted tiered cost per student values shall be computed for grades nine through twelve for each district as follows:

(a) For districts with average daily memberships for grades nine through twelve which are less than the tier midpoint of tier 1 for such grades, the adjusted tiered cost per student shall equal the average adjusted general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades nine through twelve which are greater than the tier midpoint of tier 9 for such grades, the adjusted tiered cost per student for such grades shall equal the average adjusted general fund operating expenditures per student for tier 9; and

(c) For districts with average daily memberships for grades nine through twelve which fall on or between the tier midpoints of any two tiers, the adjusted tiered cost per student for such grades shall be calculated by means of a linear transition between the average adjusted general fund operating expenditures per student of the two tiers between whose tier

midpoints the districts' average daily memberships for such grades fall;

(7) The adjusted tiered cost per student for kindergarten shall be calculated by multiplying each district's adjusted tiered cost per student for grades one through six, including full-day kindergarten, by five-tenths;

(8) The adjusted tiered cost per student for grades seven and eight shall be calculated as follows:

(a) For Class II, III, IV, and V districts, the adjusted tiered cost per student shall be the calculated mean of the district's adjusted tiered cost per student for grades one through six, including full-day kindergarten, and for grades nine through twelve;

(b) For Class I districts, the adjusted tiered cost per student shall be the district's adjusted tiered cost per student for grades one through six, including full-day kindergarten, multiplied by one and two-tenths; and

(c) For Class VI districts providing instruction in grades seven and eight as authorized by section 79-411, the adjusted tiered cost per student shall be the district's adjusted tiered cost per student for grades nine through twelve multiplied by one and two-tenths and the result divided by one and four-tenths; and

(9) In districts which receive payments pursuant to 20 U.S.C. 7701 et seq. and in which there are students enrolled who reside on Indian land, as defined under regulations of the United States Department of Education promulgated pursuant to 20 U.S.C. 7713, the adjusted tiered cost per student, for each grade level, calculated pursuant to subdivisions (5) through (8) of this section, shall be increased by a factor equal to the result of multiplying the ratio of average daily attendance of students who reside on Indian land to the total average daily attendance of the district, as reported by the United States Department of Education in calculating the district's payment pursuant to 20 U.S.C. 7701 et seq. times twenty-five percent.

Sec. 3. Section 79-1016, Reissue Revised Statutes of Nebraska, is amended to read:

79-1016. (1) On or before July 1 of each year, the Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation for the current calendar year of each district for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (2) of this section. The Property Tax Administrator shall also notify each school district of its adjusted valuation for the current calendar year by class on or before July 1 of each year. Establishment of the adjusted valuation shall be based on assessment practices established by rule and regulation adopted and promulgated by the Property Tax Administrator. The assessment practices may include, but not be limited to, the appraisal techniques listed in section 77-112.

(2) For purposes of this section, state aid value means:

(a) For real property other than agricultural land, one hundred percent of market value;

(b) For agricultural land, eighty percent of market value as provided in sections 77-1359 to 77-1365;

(c) For personal property other than motor vehicles, the net book value as defined in section 77-120; and

(d) For motor vehicles, the value established pursuant to section 77-1239.

(3) Prior to August 1 any school district may file with the Property Tax Administrator written objections to the adjusted valuations prepared by the Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Property Tax Administrator shall fix a time for a hearing. Either party shall be permitted to introduce any evidence in reference thereto. Prior to ~~December~~ November 1, the Property Tax Administrator shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Property Tax Administrator shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Property Tax Administrator may be appealed to the Tax Equalization and Review Commission.

(4) The Property Tax Administrator shall, on the date the adjusted valuations are certified to the State Department of Education under subsection (1) of this section, cause to be published notice of such adjusted valuations in a newspaper published or of general circulation in each county in Nebraska.

(5) No injunction shall be granted restraining the distribution of

state aid based upon the adjusted valuations pursuant to this section.

Sec. 4. Section 79-1018, Reissue Revised Statutes of Nebraska, is amended to read:

79-1018. District formula resources include other actual receipts as determined by the department, ~~for the most recently available complete data year,~~ except that receipts from the Community Improvements Cash Fund and receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included. Other actual receipts include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Nonresident high school tuition receipts, except that for the calculation of state aid to be paid in school years 1992-93, 1993-94, and 1994-95, other actual receipts shall include the district's total nonresident high school tuition charge for each such school year as certified by the department pursuant to section 79-4,102 as such section existed immediately prior to July 1, 1993;
- (4) Tuition receipts from individuals, other districts, or any other source except those derived from adult education;
- (5) Transportation receipts;
- (6) Interest on investments;
- (7) Other miscellaneous local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (8) Special education receipts;
- (9) Receipts from the state for wards of the court and wards of the state;
- (10) All receipts from the temporary school fund;
- (11) Receipts from the Insurance Tax Fund, except that for the calculation of state aid to be paid in school year 1996-97 and each school year thereafter, other actual receipts do not include Insurance Tax Fund receipts;
- (12) Pro rata motor vehicle license fee receipts;
- (13) Amounts provided by the state on behalf of the district as reimbursement for repayment of personal property taxes by centrally assessed pipeline companies pursuant to section 77-3617;
- (14) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;
- (15) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
- (16) All other noncategorical federal receipts;
- (17) All receipts pursuant to the enrollment option program under sections 79-232 to 79-247; and
- (18) Receipts under the federal Medicare Catastrophic Coverage Act of 1988 as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the district would have otherwise received pursuant to the Special Education Act. For state aid to be paid for school years through 1997-98, other actual receipts shall be as reported in the annual financial reports from the most recently available complete data year. For state aid certified pursuant to section 79-1022 for school year 1998-99 and each year thereafter, other actual receipts shall equal each district's other actual receipts from the most recently available complete data year, adjusted by the average annual change in each district's other actual receipts for the most recently available complete data year and the two school years immediately preceding the most recently available complete data year. For final calculation of state aid pursuant to section 79-1065, other actual receipts shall be as reported in the annual financial reports from the most recently available complete data year.

Sec. 5. Section 79-1022, Reissue Revised Statutes of Nebraska, is amended to read:

79-1022. (1) On or before April 1 of each year through 1997, the department shall determine the amounts to be distributed to each district for the following school fiscal year pursuant to sections 77-913, 79-1004, 79-1005, and 79-1007 to 79-1018 based on estimated funding levels and shall issue a projection of the amounts to each district.

(2) On or before July 1 of each year through 1997 the department shall determine the amounts to be distributed to each district for the following school fiscal year pursuant to such sections based on the appropriation to the Tax Equity and Educational Opportunities Fund and the allocation from the Insurance Tax Fund and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each district.

(3) On or before December 1, 1997, and on or before December 1 of each year thereafter, the department shall determine the amounts to be distributed to each district for the following school fiscal year based on such sections

and on estimated funding levels provided by the Legislative Fiscal Analyst. The Legislative Fiscal Analyst shall provide such estimated funding level not later than November 1, 1997, and not later than November 1 of each year thereafter.

(4) The certified amounts certified pursuant to subsections (2) and (3) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year. Such certified state aid amounts shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

Sec. 6. Original sections 79-1003, 79-1007, 79-1016, 79-1018, and 79-1022, Reissue Revised Statutes of Nebraska, are repealed.