

LEGISLATIVE BILL 313

Approved by the Governor May 25, 2001

Introduced by Coordsen, 32; Kremer, 34; Stuhr, 24; Vrtiska, 1

AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1003, 79-1010, and 79-1072.02, Revised Statutes Supplement, 2000, as amended by sections 18, 23, and 37, respectively, Legislative Bill 797, Ninety-seventh Legislature, First Session, 2001; to change provisions relating to incentive payments; to eliminate the Hardship Fund and obsolete provisions; to harmonize provisions; to repeal the original sections; to outright repeal section 79-4,107, Reissue Revised Statutes of Nebraska, and section 79-1072.03, Revised Statutes Supplement, 2000, as amended by section 38, Legislative Bill 797, Ninety-seventh Legislature, First Session, 2001; and to declare an emergency.

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

Section 1. Section 79-1003, Revised Statutes Supplement, 2000, as amended by section 18, Legislative Bill 797, Ninety-seventh Legislature, First Session, 2001, 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 minus the special receipts 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 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, funds from the Education Innovation Fund, and funds from the School Technology 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 79-1008.01 to 79-1022;

(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 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, and tuitioned students from the school fiscal year immediately preceding the school fiscal 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 fiscal year immediately preceding the school fiscal year in which the 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, the calculation of Class I total allowable general fund budget of expenditures minus the special education budget of expenditures pursuant to section 79-1083.03, 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 subject to the approval of the department; ~~and does not include expenditures for repayment of funds pursuant to subsection (6) of section 79-1072.03;~~

(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, 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;

(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 student means a student with limited English proficiency 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;

(26) 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;

(27) 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;

(28) 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;

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

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

(31) School year or school fiscal year means the fiscal year of a

school district as defined in section 79-1091;

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

(33) 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;

(34) Special receipts allowance means the amount of special education, state ward, and accelerated or differentiated curriculum program receipts included in local system formula resources under subdivisions (7), (8), (16), and (17) of section 79-1018.01;

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

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

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

(38) Transportation allowance means the lesser of (a) each local system's general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 79-611 in the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, but not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures, or (b) the number of miles traveled in the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid by vehicles owned, leased, or contracted by the district or the districts in the local system 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; and

(39) 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 79-1010, Revised Statutes Supplement, 2000, as amended by section 23, Legislative Bill 797, Ninety-seventh Legislature, First Session, 2001, is amended to read:

79-1010. (1) To encourage consolidation and unification of school districts, incentives shall be paid to reorganized districts and unified systems in certain size ranges for a three-year period to reward the reorganized districts or unified systems for their efforts to increase efficiency in the delivery of educational services. This section shall only apply to consolidations and unifications with an effective date after May 31, 1996, and before August 2, ~~2001~~ 2002.

(2) To qualify for incentive payments under this section, the consolidation or unification must be approved for incentive payments by the State Committee for the Reorganization of School Districts. For consolidations, 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. For consolidations, 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. For unifications, the unified system or participating districts shall file an application for incentive payments with the state committee either following approval of the application for unification or in conjunction with the application for unification. The state committee shall, within thirty days, approve or disapprove incentive payments. For consolidations, 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 for either consolidations

or unifications by the state committee, a reorganization study, including efficiency, demographic, curriculum, facility, financial, and community components, must be completed. If a study containing such elements is completed and the reorganization plan or unification agreement 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)(a) 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 fiscal year immediately preceding the first school fiscal year the boundary change or unification is in effect and the average daily membership the consolidated district or unified system would have had following the boundary change or unification if it had occurred in the school fiscal year immediately preceding the first school fiscal year the boundary change or unification is in effect. The reorganized school districts or unified systems existing after the qualified boundary change or unification 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 or unification	Average daily membership range with boundary change or unification	Incentive payment per student who moves from the average daily membership range before consolidation or unification to the average daily membership range with boundary change or unification
.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 or unification	Average daily membership range with boundary change or unification	Incentive payment per student who moves from the average daily membership range before consolidation or unification to the average daily membership range with boundary change or unification
.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	Average daily membership range with boundary change	Incentive payment per student who moves from the
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consolidation or unification	or unification	average daily membership range before consolidation or unification to the average daily membership range with boundary change or unification
.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

(b) For local systems that will receive base year incentive payments for school fiscal year 2001-02 or any school fiscal year thereafter for a consolidation that includes two districts which entered into an agreement under the Interlocal Cooperation Act in which one district did not offer instruction in either grades seven through twelve or nine through twelve and contracted with the other district for the education of seventh through twelfth grade students or ninth through twelfth grade students for the school year prior to the consolidation, those seventh through twelfth grade students or ninth through twelfth grade students who were being educated outside their resident district pursuant to the agreement by a school that is in the local system receiving the incentives shall be included in the average daily membership of the resident district before consolidation for purposes of calculating incentive payments under this section.

(5) Except as otherwise provided in subsection (6) of this section, two million dollars shall be set aside for school fiscal years 1999-00, 2000-01, and 2001-02, two and 2000-01 and five million dollars shall be set aside for school fiscal year 2001-02 for base fiscal year incentive payments pursuant to subsection (6) of this section. For school fiscal year 2002-03, two million dollars plus any unused funds that were made available for base fiscal year incentive payments in school fiscal year 2001-02 shall be set aside for base fiscal year incentive payments pursuant to such subsection. All other payments pursuant to this section shall be paid directly to the consolidated district or unified system from the Tax Equity and Educational Opportunities Fund.

(6) Base fiscal year payments approved by the State Committee for the Reorganization of School Districts on or before October 1 of the school fiscal year in which the reorganization or unification will occur shall be calculated and paid from the Tax Equity and Educational Opportunities Fund pursuant to subsection (5) of this section with the state aid certified for the base fiscal year. Any base fiscal year payments from the Tax Equity and Educational Opportunities Fund that are not distributed due to proration shall be paid from the Reorganized School Assistance Fund. 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 or unified system from the Reorganized School Assistance Fund for the 1998-99 school fiscal year and from the two million dollars set aside amount set aside for such school fiscal year 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 amount set aside for such school fiscal year, the balance of the Reorganized School Assistance Fund for school fiscal year 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 amount set aside for such school fiscal year. 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~~ 2003.

(7)(a) For consolidations, one hundred percent of the amount calculated pursuant to subsection (4) of this section shall be included in the distribution of state aid for each of the first three consecutive school fiscal 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. For unifications, one hundred percent of the amount calculated pursuant to subsection (4) of this section shall be included in the distribution of state aid for the first school fiscal year beginning with the base fiscal year, seventy-five percent for the second school fiscal year beginning with the base fiscal year, and fifty percent for the third school fiscal year beginning with the base fiscal year. If a unified system consolidates and the boundary change takes effect before August 2, ~~2001~~ 2002, the consolidated district will be eligible to receive seventy-five percent of the amount originally calculated pursuant to subsection (4) of this section in the base fiscal year. If a consolidated district is still receiving incentive payments for a unification in the base fiscal year, the payments for the remainder of the first three years will be at one hundred percent of the amount calculated pursuant to subsection (4) of this section and in the fourth year, the district will receive the difference between the incentive payments received and three hundred percent of the amount calculated pursuant to subsection (4) of this section. If additional districts are added to the unified system or are added in a consolidation, the additional incentives shall be calculated by the department and added to the incentive payments.

(b) For local systems that received base year incentive payments prior to school fiscal year 2001-02 for a consolidation that included two districts which entered into an agreement under the Interlocal Cooperation Act in which one district did not offer instruction for either grades seven through twelve or nine through twelve and contracted with the other district for the education of seventh through twelfth grade students or ninth through twelfth grade students for the school year prior to the consolidation, a calculation shall be made for additional incentives. The additional incentives shall be calculated pursuant to subsection (4) of this section, except that the average daily membership before consolidation shall equal the seventh through twelfth grade students or ninth through twelfth grade students who were being educated outside their resident district pursuant to the agreement by a school that is in the local system receiving the incentives. The June 30, 2001, and June 30, 2002, state aid payments for such local system shall include an amount equal to the additional incentives calculated pursuant to this subsection. An amount equal to the additional incentives shall also be included in the reorganization incentives for state aid to be paid in the 2002-03 school fiscal year, subject to any reduction that may be required pursuant to subsection (9) of this section.

(8) If, prior to the beginning of the eighth school year of operating as a unified system, the unified system (a) discontinues its status as a unified system and (b) does not consolidate, the districts in the unified system shall pay back the incentives. The total incentives paid to the unified system shall be divided between the districts based on the adjusted valuation of each district in the year prior to the discontinuation of the unified system, and each district's share shall be paid back through reductions in state aid in equal amounts for five years. If a district withdraws from a unified system prior to the beginning of the eighth school year of participating in the unified system, the district shall pay back the incentives attributable to the district's participation in the unified system through reductions in state aid in equal amounts for five years. The total incentives paid shall include interest calculated from the date of payment until the estimated repayment at the rate specified in section 45-104.02 as of the expiration of the agreement or the effective date of withdrawal. If the state aid is less than the repayment amount in any school fiscal year, the

remaining repayment will reduce state aid in future school fiscal years.

(9) If the total amount of incentive payments to school districts for a 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 minus two million dollars. The 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 section after July 1, ~~2004~~ 2005.

Sec. 3. Section 79-1072.02, Revised Statutes Supplement, 2000, as amended by section 37, Legislative Bill 797, Ninety-seventh Legislature, First Session, 2001, is amended to read:

~~79-1072.02. The Hardship Fund is eliminated. The State Treasurer shall transfer any money remaining in the fund on the effective date of this act to the General Fund on such date. created. Money in the fund shall be distributed to school districts pursuant to section 79-1072.03. The fund shall consist of funds appropriated by the Legislature and funds repaid and interest paid by districts as required by section 79-1072.03. Funds expended by a district to make repayments to the Hardship Fund shall be excluded from the expenditure lid limitations under sections 79-1023 to 79-1030. Any money in the 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.~~

Sec. 4. Original sections 79-1003, 79-1010, and 79-1072.02, Revised Statutes Supplement, 2000, as amended by sections 18, 23, and 37, respectively, Legislative Bill 797, Ninety-seventh Legislature, First Session, 2001, are repealed.

Sec. 5. The following sections are outright repealed: Section 79-4,107, Reissue Revised Statutes of Nebraska, and section 79-1072.03, Revised Statutes Supplement, 2000, as amended by section 38, Legislative Bill 797, Ninety-seventh Legislature, First Session, 2001.

Sec. 6. Since an emergency exists, this act takes effect when passed and approved according to law.