

LEGISLATIVE BILL 1093

Approved by the Governor April 13, 2004

Introduced by Raikes, 25; at the request of the Governor

AN ACT relating to state aid to schools; to amend sections 77-3442, 79-1005.01, 79-1005.02, 79-1007.02, 79-1008.01, and 79-1009, Reissue Revised Statutes of Nebraska; to change provisions relating to the maximum levy, state aid from income tax receipts, state aid formula calculations, equalization aid, and net option funding for certain fiscal years as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 77-3442, Reissue Revised Statutes of Nebraska, is amended to read:

77-3442. (1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivision (2)(b) of this section, school districts and multiple-district school systems may levy a maximum levy of (i) one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy for fiscal years 2003-04 through 2007-08 ~~and 2004-05~~ and (ii) one dollar per one hundred dollars of taxable valuation of property subject to the levy for all fiscal years except fiscal years 2003-04 ~~and 2004-05~~ through 2007-08. Excluded from this limitation are amounts levied to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment and amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(b) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(c) ~~Beginning with~~ For school fiscal year 2002-03 through school fiscal year ~~2004-05~~ 2007-08, school districts and multiple-district school systems may, upon a three-fourths majority vote of the school board of the school district, the board of the unified system, or the school board of the high school district of the multiple-district school system that is not a unified system, exceed the maximum levy prescribed by subdivision (2)(a) of this section in an amount equal to the net difference between the amount of state aid that would have been provided under the Tax Equity and Educational Opportunities Support Act without the ~~changes made by Laws 2002, LB 898,~~ temporary aid adjustment factor and if subdivision (3) of section 79-1007.02 and subsections (2) and (5) of section 79-1008.01 had applied for the ensuing school fiscal year for the school district or multiple-district school system and the amount provided under the act as amended by Laws 2002, LB 898 with the temporary aid adjustment factor and if subdivision (4) of section 79-1007.02 and subsections (3) and (6) of section 79-1008.01 had applied. The State Department of Education shall certify to the school districts and multiple-district school systems the amount by which the maximum levy may be exceeded for the next school fiscal year pursuant to subdivision (2)(c) of this section on or before May 15, 2002, for school fiscal year 2002-03, June 30, 2003, for school fiscal year 2003-04, and February 15, 2004, for school fiscal year 2004-05 years 2004-05 through 2007-08.

(3) Community colleges may levy a maximum levy on each one hundred dollars of taxable property subject to the levy of seven cents for fiscal year 2000-01 and each fiscal year thereafter, plus amounts allowed under subsection (7) of section 85-1536.01.

(4) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property

subject to the levy.

(5) Educational service units may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated.

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

(11) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(12) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

(13) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

Sec. 2. 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, ~~2003-04, and 2004-05~~ 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 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. 3. Section 79-1005.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-1005.02. For state aid calculated for school fiscal years 2002-03 through 2007-08: ~~2003-04, and 2004-05.~~

(1) 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

(2) Using the data certified by the Tax Commissioner pursuant to subdivision (1) 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 with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subdivision (1) of this section. Each local system's preliminary allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subdivision (1) of this section. Each local system's allocated income tax funds shall be calculated by subtracting the difference of the temporary aid adjustment factor minus the reduction in net option funding due to the temporary aid adjustment factor, from the preliminary allocated income tax funds, except that a local system's allocated income tax funds shall not be less than zero.

Sec. 4. Section 79-1007.02, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Using data from the annual financial reports for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the annual statistical summary reports for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the fall membership reports and supplements thereto for the school fiscal year

immediately preceding the school fiscal year in which aid is to be paid, and the school district census as reported under sections 79-524 and 79-578 for the second school fiscal year preceding the school fiscal year in which aid is to be paid, the department shall divide the local systems into three cost groupings prior to the certification of state aid based upon the following criteria:

(a) The very sparse cost grouping will consist of local systems that have (i) (A) 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, (B) less than one formula student per square mile in the local system, and (C) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads or (ii) (A) more than four hundred fifty square miles in the local system, (B) less than one-half student per square mile in the local system, and (C) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads;

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

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

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

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

(iv) (A) Less than two formula students per square mile in the local system and (B) 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; and

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

For purposes of subdivision (1) of this section, if a local system did not operate and offer instruction in grades nine through twelve within the boundaries of the local system during the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the local system shall not be considered to have a high school attendance center;

(2) The department shall calculate the average formula cost per student in each cost grouping by dividing the total estimated general fund operating expenditures for the cost grouping by the total adjusted formula students for all local systems in the cost grouping. For the calculation of state aid for school fiscal year 1999-00 and for each school fiscal year thereafter, the average formula cost per student in each cost grouping shall not be recalculated for the final calculation of state aid pursuant to section 79-1065. The calculation of total adjusted formula students for purposes of this subdivision shall take into account the requirements of subsection (2) of section 79-1007.01. The total estimated general fund operating expenditures for the cost grouping is equal to the total adjusted general fund operating expenditures for all local systems in the cost grouping multiplied by a cost growth factor. The cost growth factor for each cost grouping is equal to the sum of: (a) One; plus (b) the product of two times the ratio of the difference between the formula students attributable to the cost grouping without weighting or adjustment pursuant to section 79-1007.01 and the sum of the average daily membership plus tuitioned students attributable to the cost grouping for the most recently available complete data year divided by the sum of the average daily membership plus tuitioned students attributable to the cost grouping for the most recently available complete data year, except that the ratio shall not be less than zero; plus (c) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (d) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (e) one-half of any additional growth rate allowed by special action of school boards for the school fiscal year in which the aid is to be distributed as determined for the school fiscal year immediately preceding the school fiscal year when aid is to be distributed; plus (f) one-half of any additional growth rate allowed by special action of the school boards for the school fiscal year immediately

preceding the school fiscal year when the aid is to be distributed;

(3) For all school fiscal years except school fiscal years 2002-03 through 2007-08, ~~2003-04, or 2004-05~~, each local system's formula need will be equal to the local system's transportation allowance plus the local system's special receipts allowance plus 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. The calculation of total adjusted formula students for purposes of this subdivision shall take into account the requirements of subsection (2) of section 79-1007.01; and

(4) For school fiscal years 2002-03 through 2007-08, ~~2003-04, or 2004-05~~, each local system's formula need shall be calculated by subtracting the temporary aid adjustment factor from 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. The calculation of total adjusted formula students for purposes of this subdivision shall take into account the requirements of subsection (2) of section 79-1007.01.

Sec. 5. Section 79-1008.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1008.01. (1) Except as provided in subsection (2) of this section and 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 and 79-1007.02, exceeds its total formula resources as determined pursuant to sections 79-1015.01 to 79-1018.01.

(2) Except as provided in section 79-1008.02, a local system shall not receive state aid for any school fiscal year, except school fiscal years 2002-03 through 2007-08, ~~2003-04, and 2004-05~~, which is less than an amount equal to the difference of eighty-five percent of the amount of aid certified in the preceding school fiscal year minus an amount equal to any increase in the adjusted valuation between the adjusted valuation used for the certification of aid in the preceding school fiscal year and the adjusted valuation used for the aid being calculated multiplied by the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444.

(3) Except as provided in section 79-1008.02, a local system shall not receive state aid for school fiscal years 2002-03, ~~2003-04, or 2004-05~~ through 2007-08 which is less than an amount equal to the difference of eighty-three and three-fourths percent of the amount of aid certified in the preceding school fiscal year minus an amount equal to any increase in the adjusted valuation between the adjusted valuation used for the certification of aid in the preceding school fiscal year and the adjusted valuation used for the aid being calculated multiplied by the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444.

(4) Except as provided in subsection (2) ~~or (3)~~ of this section, no local system may receive equalization aid such that, when total aid is added to a levy equal to the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444, less ten cents, multiplied by the local system's adjusted valuation, would result in total local system revenue from state aid plus property tax receipts which exceeds the total of:

(a) The sum of state aid, receipts from other school districts related to annexation, and property tax receipts received by the local system during the preceding school fiscal year multiplied by the total of (i) 1.01 plus (ii) the applicable allowable growth rate for the local system calculated pursuant to section 79-1026 as determined for the school fiscal year immediately preceding the school fiscal year when aid is to be distributed plus (iii) the percentage growth in formula students from the certification of state aid for the immediately preceding school fiscal year to the formula students for the certification of state aid for the current school fiscal year, except that the percentage growth shall not be less than zero;

(b) Unused budget authority authorized pursuant to section 79-1030;

(c) The difference between the other actual receipts included in local system formula resources for the certification of state aid in the preceding school fiscal year and other actual receipts included in local system formula resources for the certification of state aid for the current school fiscal year, except that such difference shall not be less than zero; and

(d) The absolute value of any negative prior year adjustment

pursuant to section 79-1065.

For local systems that have reorganized, state aid, property tax receipts, and number of formula students shall be attributed based on valuation. The revenue from property tax receipts shall be calculated by multiplying the reported general fund common levy by the assessed valuation subject to the levy divided by one hundred.

(5) For all school fiscal years except school fiscal years 2002-03 through 2007-08, ~~2003-04, and 2004-05,~~ the aid that is not distributed through equalization based on subsection (4) of this section shall be distributed through this subsection. Local systems qualify for distribution under this subsection if they have nine hundred or less formula students and adjusted general fund operating expenditures per formula student less than the average for all local systems with nine hundred or less formula students. The aid shall be distributed proportionally to qualifying districts based on the dollar amount each local system's calculated state aid plus the product of a levy of one dollar multiplied by the assessed valuation divided by one hundred is below ninety percent of state aid plus property tax receipts received by the local system during the preceding school fiscal year. No system shall receive aid pursuant to this subsection such that the calculated state aid plus the product of a levy of one dollar multiplied by the assessed valuation divided by one hundred is ninety percent or more of state aid plus property tax receipts received by the local system during the preceding school fiscal year. Any aid available for distribution pursuant to this subsection that is not distributed pursuant to this subsection shall be distributed as equalization aid.

(6) For school fiscal years 2002-03 through 2007-08, ~~2003-04, and 2004-05,~~ the aid that is not distributed through equalization based on subsection (3) of this section shall be distributed through this subsection. Local systems qualify for distribution under this subsection if they have nine hundred or less formula students and adjusted general fund operating expenditures per formula student less than the average for all local systems with nine hundred or less formula students. The aid shall be distributed proportionally to qualifying districts based on the dollar amount each local system's calculated state aid plus the product of a levy equal to the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444, multiplied by the assessed valuation is below eighty-eight and three-fourths percent of state aid plus property tax receipts received by the local system during the preceding school fiscal year. No system shall receive aid pursuant to this subsection such that the calculated state aid plus the product of a levy equal to the maximum levy, for the school fiscal year for which aid is being certified, pursuant to subdivision (2)(a) of section 77-3442 without a vote pursuant to section 77-3444, multiplied by the assessed valuation is eighty-eight and three-fourths percent or more of state aid plus property tax receipts received by the local system during the preceding school fiscal year. Any aid available for distribution pursuant to this subsection that is not distributed pursuant to this subsection shall be distributed as equalization aid.

Sec. 6. Section 79-1009, Reissue Revised Statutes of Nebraska, is amended to read:

79-1009. (1) A district shall receive net option funding if option students as defined in section 79-233 (a) were actually enrolled in the school year immediately preceding the school year in which the aid is to be paid or (b) will be enrolled in the school year in which the aid is to be paid as converted contract option students.

(2) For purposes of this section: (a) For all school fiscal years except school fiscal years 2002-03 through 2007-08, ~~2003-04, and 2004-05,~~ net option funding means the sum of the products of the net number of option students in each grade range multiplied by the statewide average cost grouping cost per student multiplied by the weighting factor for the corresponding grade range pursuant to section 79-1007.01; and (b) for school fiscal years 2002-03 through 2007-08, ~~2003-04, and 2004-05,~~ net option funding shall be calculated by subtracting the temporary aid adjustment factor from the sum of the products of the net number of option students in each grade range multiplied by the statewide average cost grouping cost per student multiplied by the weighting factor for the corresponding grade range pursuant to section 79-1007.01, except that a local system's net option funding shall not be less than zero. Net + and (-) net number of option students means the number of option students actually enrolled in a grade range in the current data year minus the number of students residing in the district but enrolled in another district in the same grade range in the current data year as option students as defined in section 79-233. A district's net option funding shall be zero

if the calculation produces a negative result.

(3) The determination of the net number of option students shall be based on (a) the number of option students enrolled in the district or enrolled in another district as of the day of the fall membership count pursuant to section 79-528, for the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and (b) the number of option students that will be enrolled in the district or enrolled in another district as converted contract option students for the school fiscal year in which the aid is to be paid. Payments made under this section shall be made from the funds to be disbursed under section 79-1005.01 or 79-1005.02.

(4) Payments made pursuant to this section shall go directly to the option school district but shall count as a formula resource for the local system.

Sec. 7. Original sections 77-3442, 79-1005.01, 79-1005.02, 79-1007.02, 79-1008.01, and 79-1009, Reissue Revised Statutes of Nebraska, are repealed.