

LEGISLATIVE BILL 577

Approved by the Governor June 3, 2005

Introduced by Raikes, 25; Brown, 6; Kruse, 13; Schimek, 27; Thompson, 14;
Howard, 9

AN ACT relating to education; to amend sections 79-1003, 79-1007.01, and 79-1103, Reissue Revised Statutes of Nebraska, and sections 79-1007.02 and 79-1028, Revised Statutes Supplement, 2004; to change provisions relating to early childhood education programs as prescribed; to define and redefine terms; to provide a weighting factor and a calculation; to change provisions relating to applicable allowable growth rates; to change provisions relating to a grant program; 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 (23) 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 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, 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) Converted contract means an expired contract that was in effect for at least fifteen years for the education of students in a nonresident district in exchange for tuition from the resident district when the expiration of such contract results in the nonresident district educating students who would have been covered by the contract if the contract were still in effect as option students pursuant to the enrollment option program established in section 79-234;

(11) Converted contract option students means students who will be option students pursuant to the enrollment option program established in section 79-234 for the school fiscal year for which aid is being calculated and who would have been covered by a converted contract if the contract were still in effect and such school fiscal year is the first school fiscal year for which such contract is not in effect;

- (12) Department means the State Department of Education;
- (13) District means any Class I, II, III, IV, V, or VI school district;
- (14) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;
- (15) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1008.01 to 79-1022 and 79-1022.02;
- (16) 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;
- (17) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;
- (18) 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 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 (b) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership and 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;
- (19) 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;
- (20) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;
- (21) 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;
- (22) General fund expenditures means all expenditures from the general fund;
- (23) 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;
- (24) High school district means a school district providing instruction in at least grades nine through twelve;
- (25) 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;
- (26) 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;
- (27) 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;
- (28) 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;
- (29) 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;

(30) 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;

(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 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, multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two;

(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 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, multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two;

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

~~(32)~~ (34) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

~~(33)~~ (35) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

~~(34)~~ (36) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

~~(35)~~ (37) 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;

~~(36)~~ (38) 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;

~~(37)~~ (39) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

~~(38)~~ (40) State board means the State Board of Education;

~~(39)~~ (41) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

~~(40)~~ (42) Temporary aid adjustment factor means 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;

~~(41)~~ (43) 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;

~~(42)~~ (44) Tuition receipts from converted contracts means tuition receipts received by a district from another district in the most recently available complete data year pursuant to a converted contract prior to the expiration of the contract; and

~~(43)~~ (45) 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 79-1007.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1007.01. (1) The adjusted formula students for each local system shall be calculated by:

(a) Multiplying the formula students in each grade range by the corresponding weighting factors to calculate the weighted formula students for each grade range as follows:

(i) The weighting factor for early childhood education programs is six-tenths;

(ii) The weighting factor for kindergarten is five-tenths;

~~(ii)~~ (iii) The weighting factor for grades one through six, including full-day kindergarten, is one;

~~(iii)~~ (iv) The weighting factor for grades seven and eight is one and two-tenths; and

~~(iv)~~ (v) The weighting factor for grades nine through twelve is one and four-tenths;

(b) Adding the weighted formula students for each grade range to calculate the weighted formula students for the local system; and

(c) Adjusting the weighted formula students by adding the following demographic factors:

(i) The Indian-land factor shall equal 0.25 times the average daily attendance of students who reside on Indian land as reported by the United States Department of Education in calculating the local system's payment pursuant to 20 U.S.C. 7701 et seq., as such sections existed on April 12, 2002;

(ii) The limited English proficiency factor shall equal 0.25 times the students in the local system with limited English proficiency as defined under 20 U.S.C. 7601, as such section existed on April 12, 2002;

(iii) The department shall calculate the number of formula students to whom the poverty factor shall apply. The department shall calculate a ratio of the formula students to the total children under nineteen years of age residing in the local system and shall apply the ratio to the low-income children within the local system, in order to determine the number of low-income students within such local system. The number of children under nineteen years of age used in this calculation shall be derived from income tax information. The poverty factor shall equal the number of low-income students or the formula students qualified for free lunches or free milk under United States Department of Agriculture child nutrition programs, whichever is greater, multiplied by the following factors:

(A) 0 for the qualified formula students comprising the first five percent of the formula students in the local system;

(B) 0.05 for the qualified formula students comprising more than five percent and not more than ten percent of the formula students in the local system;

(C) 0.10 for the qualified formula students comprising more than ten percent and not more than fifteen percent of the formula students in the local system;

(D) 0.15 for the qualified formula students comprising more than fifteen percent and not more than twenty percent of the formula students in the local system;

(E) 0.20 for the qualified formula students comprising more than twenty percent and not more than twenty-five percent of the formula students in the local system;

(F) 0.25 for the qualified formula students comprising more than twenty-five percent and not more than thirty percent of the formula students in the local system; and

(G) 0.30 for the qualified formula students comprising more than

thirty percent of the formula students in the local system; and

(iv) The extreme remoteness factor shall equal 0.125 times the formula students in the local system for each local system that has fewer than two hundred formula students, more than six hundred square miles in the local system, less than three-tenths formula student per square mile in the local system, and more than twenty-five miles between the high school attendance center and the next closest high school attendance center on paved roads.

(2) The total adjusted formula students for each local system shall equal the weighted formula students plus the demographic factors, except that (a) for local systems qualifying for the extreme remoteness factor, the total adjusted formula students shall be greater than or equal to one hundred fifty adjusted formula students, (b) the total adjusted formula students for a local system shall not include the extreme remoteness factor or any adjustment to the adjusted formula students resulting from qualification for the extreme remoteness factor for the calculation of the average formula cost per student in each cost grouping pursuant to subdivision (2) of section 79-1007.02, and (c) the total adjusted formula students for a local system shall include the extreme remoteness factor and any adjustment to the adjusted formula students resulting from qualification for the extreme remoteness factor for the calculation of the local system's formula need pursuant to subdivision (3) or (4) of section 79-1007.02.

Sec. 3. Section 79-1007.02, Revised Statutes Supplement, 2004, 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) (a) 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 difference between the total adjusted formula students for all local systems in the cost grouping minus (i) the adjusted formula students attributed to early childhood education programs approved by the department pursuant to section 79-1103 for the first two school fiscal years for which students attributed to early childhood education programs approved by the department pursuant to section 79-1103 are being included in the calculation of state aid for the local system and (ii) for the first two school fiscal years immediately following the school fiscal year in which a district in the local system received an expansion grant pursuant to section 79-1103, the difference between the adjusted formula students attributed to early childhood education programs approved by the department pursuant to section 79-1103 for the school fiscal year immediately following the school fiscal year in which a district in the local system received an expansion grant minus the adjusted formula students attributed to early childhood education programs approved by the department pursuant to section 79-1103 for the school fiscal year in which a district in the local system received an expansion grant. 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.

(b) The cost growth factor for each cost grouping is equal to the sum of: ~~(a)~~ (i) One; plus ~~(b)~~ (ii) 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)~~ (iii) 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)~~ (iv) 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)~~ (v) 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)~~ (vi) 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, 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, 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. 4. Section 79-1028, Revised Statutes Supplement, 2004, is amended to read:

79-1028. (1) A Class II, III, IV, V, or VI school district may exceed the local system's applicable allowable growth rate for (a) expenditures in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity or joint public agency, (b) expenditures to pay for repairs to infrastructure damaged by a natural

disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (c) expenditures to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district, (d) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment, or (e) expenditures to pay for lease-purchase contracts approved on or after July 1, 1997, and before July 1, 1998, to the extent the lease payments were not budgeted expenditures for fiscal year 1997-98.

(2) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The department shall approve, deny, or modify the projected increases.

Average daily membership of district	Projected increase of formula students by percentage
0 - 50	10
50.01 - 250	5
250.01 - 1,000	3
1,000.01 and over	1

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1, the department shall make available to districts which have been allowed additional growth pursuant to this subsection the necessary document to recalculate the actual formula students of such district. Such document shall be filed with the department under subsection (1) of section 79-1024.

(3) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a Class II, III, IV, V, or VI district to exceed the local system's applicable allowable growth rate by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall notify the district on or before July 1 of the recovery of the additional growth pursuant to this subsection.

(4) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the department that it will exceed its applicable allowable growth rate as a result of costs pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856. The department shall compute the amount by which the increased cost of such program or programs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund expenditures by such amount for that fiscal year.

(5) A Class II, III, IV, or V district may exceed its applicable allowable growth rate by the specific dollar amount of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011.

(6) A Class II, III, IV, V, or VI district may exceed the district's applicable allowable growth rate by a specific dollar amount in any year for which the state aid calculation for the local system includes students in the qualified early childhood education fall membership for the first time or for a year in which an early childhood education program of the district is receiving an expansion grant. The department shall compute the amount by which the district may exceed the district's applicable allowable growth rate by multiplying the cost grouping cost per student for the local system's cost grouping by the local system's adjusted formula students attributed to early childhood education programs if students are included in the local system's

qualified early childhood education fall membership for the first time or by the local system's adjusted formula students attributed to such early childhood education programs minus the local system's adjusted formula students attributed to such early childhood education programs for the prior school fiscal year if a program is receiving an expansion grant in the school fiscal year for which the fall membership is measured. The department shall allow the district to increase its general fund expenditures by such amount for such school fiscal year.

Sec. 5. Section 79-1103, Reissue Revised Statutes of Nebraska, is amended to read:

79-1103. ~~(1)~~ (1)(a) The State Department of Education shall establish and administer the Early Childhood Education Grant Program. The department shall request proposals for early childhood education programs from ~~local school districts, cooperatives of school districts, and individually or in cooperation with other school districts~~ or educational service units, working in cooperation with existing nonpublic programs which meet the requirements of subsection (2) of section 79-1104.

(b) The first priority shall be for (i) continuation grants for programs that received grants in the prior school fiscal year and for which the state aid calculation pursuant to the Tax Equity and Educational Opportunities Support Act does not include early childhood education students, in an amount equal to the amount of such grant, except that if the grant was a first-year grant the amount shall be reduced by thirty-three percent, and (ii) continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, in an amount equal to the amount of the grant for the school fiscal year prior to the first school fiscal year for which early childhood education students were included in the state aid calculation for the school district's local system minus the calculated state aid amount. The calculated state aid amount shall be calculated by multiplying the cost grouping cost per student for the school district's local system cost grouping by the adjusted formula students attributed to the early childhood education programs pursuant to the Tax Equity and Educational Opportunities Support Act.

(c) The second priority shall be for new grants and expansion grants for programs that will serve at-risk children who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half of the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half of the budget for expanding the capacity of the program to serve additional children.

(d) The third priority shall be for new grants, expansion grants, and continuation grants for programs serving children younger than those who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half the budget for expanding the capacity of the program to serve additional children. Continuation grants under this priority may be given annually in an amount up to one-half the total budget of the program per year minus any continuation grants received under the first priority.

(e) Programs serving children who will be eligible to attend kindergarten the following school year shall be accounted for separately for grant purposes from programs serving younger children, but the two types of programs may be combined within the same classroom to serve multi-age children. Programs that receive grants for school fiscal years prior to school fiscal year 2005-06 to serve both children who will be eligible to attend kindergarten the following school year and younger children shall account for the two types of programs separately for grant purposes beginning with school year 2005-06 and shall be deemed to have received grants prior to school fiscal year 2005-06 for each year that grants were received for the types of programs representing the age groups of the children served. Each program selected may be provided a grant of up to one-half of the total budget of the program per year. Pilot projects previously funded under this section as it existed immediately before September 1, 2001, and Even Start family literacy programs which exhaust their eligibility for Even Start funds shall be eligible for grant awards if their continuation plans meet the requirements of subsection (2) of this section. Programs selected for grant awards may receive continuation grants subject to the availability of funding and the submission of a continuation plan which meets the requirements of such subsection.

(2) Each program proposal which is ~~accepted~~ approved by the department shall include (a) a planning period, (b) an agreement to participate in periodic evaluations of the program to be specified by the

department, (c) evidence that the program will be coordinated or contracted with existing programs, including those listed in subdivision (d) of this subsection and nonpublic programs which meet the requirements of subsection (2) of section 79-1104, (d) a plan to coordinate and use a combination of local, state, and federal funding sources, including, but not limited to, programs for children with disabilities below five years of age funded through the Special Education Act, the Early Intervention Act, funds available through the flexible funding provisions under the Special Education Act, the federal Head Start program, 42 U.S.C. 9831 et seq., the federal Even Start Family Literacy Program, 20 U.S.C. 6361 et seq., Title I of the federal Improving America's Schools Act of 1994, 20 U.S.C. 6301 et seq., and child care assistance through the Department of Health and Human Services, (e) a plan to use sliding fee scales and the funding sources included in subdivision (d) of this subsection to maximize the participation of economically and categorically diverse groups and to ensure that participating children and families have access to comprehensive services, (f) the establishment of an advisory body which includes families and community members, (g) the utilization of appropriately qualified staff, (h) an appropriate child-to-staff ratio, (i) appropriate group size, (j) compliance with minimum health and safety standards, (k) appropriate facility size and equipment, (l) a strong family development and support component recognizing the central role of parents in their children's development, (m) developmentally and culturally appropriate curriculum, practices, and assessment, (n) sensitivity to the economic and logistical needs and circumstances of families in the provision of services, (o) integration of children of diverse social and economic characteristics, (p) a sound evaluation component, including at least one objective measure of child performance and progress, (q) continuity with programs in kindergarten and elementary grades, (r) instructional hours that are similar to or less than the instructional hours for kindergarten, (s) well-defined language development and early literacy emphasis, including the involvement of parents in family literacy activities, ~~(s)~~ (t) a plan for ongoing professional development of staff, and ~~(t)~~ (u) inclusion of children with disabilities as defined in the Special Education Act, all as specified by rules and regulations of the department in accordance with sound early childhood educational practice.

(3) The department shall make an effort to fund programs widely distributed across the state in both rural and urban areas.

(4) A report evaluating the programs shall be made to the State Board of Education and the Legislature by January 1 of each odd-numbered year. Up to five percent of the total appropriation for the Early Childhood Education Grant Program may be reserved by the department for evaluation and technical assistance for the programs.

(5) Programs selected for funding may be awarded continuation funding may be approved for purposes of the Tax Equity and Educational Opportunities Support Act, expansion grants, and continuation grants on the submission of a continuation plan demonstrating that the program will continue to meet the requirements of subsection (2) of this section and a proposed operating budget demonstrating that the program will continue to receive resources from other sources equal to or greater than the sum of any grant received pursuant to this section for the prior school year plus any calculated state aid as calculated pursuant to subsection (1) of this section for the prior school year.

(6) The board ~~shall~~ may adopt and promulgate rules and regulations to implement the Early Childhood Education Grant Program.

Sec. 6. Original sections 79-1003, 79-1007.01, and 79-1103, Reissue Revised Statutes of Nebraska, and sections 79-1007.02 and 79-1028, Revised Statutes Supplement, 2004, are repealed.