

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 510**

Introduced by Nebraska Retirement Systems Committee: Nordquist, 7,  
Chairperson; Heidemann, 1; Karpisek, 32; Louden, 49;  
Mello, 5; Pankonin, 2.

Read first time January 18, 2011

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to the Class V School Employees Retirement Act;  
2 to amend sections 79-9,113, 79-1003, and 79-1028.01,  
3 Revised Statutes Cumulative Supplement, 2010; to change  
4 the employee contribution rate; to eliminate obsolete  
5 language; to harmonize provisions; to repeal the original  
6 sections; and to declare an emergency.  
7 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 79-9,113, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3                   79-9,113 (1)(a) If, at any future time, a majority of the  
4 eligible members of the retirement system votes to be included under  
5 an agreement providing old age and survivors insurance under the  
6 Social Security Act of the United States, the contributions to be  
7 made by the member and the school district for membership service,  
8 from and after the effective date of the agreement with respect to  
9 services performed subsequent to December 31, 1954, shall each be  
10 reduced from five to three percent but not less than three percent of  
11 the member's salary per annum, and the credits for membership service  
12 under this system, as provided in section 79-999, shall thereafter be  
13 reduced from one and one-half percent to nine-tenths of one percent  
14 and not less than nine-tenths of one percent of salary or wage earned  
15 by the member during each fiscal year, and from one and sixty-five  
16 hundredths percent to one percent and not less than one percent of  
17 salary or wage earned by the member during each fiscal year and from  
18 two percent to one and two-tenths percent of salary or wage earned by  
19 the member during each fiscal year, and from two and four-tenths  
20 percent to one and forty-four hundredths percent of salary or wage  
21 earned by the member during each fiscal year. ~~\_, except that after~~  
22 ~~September 1, 1963, and prior to September 1, 1969, all employees of~~  
23 ~~the school district shall contribute an amount equal to the~~  
24 ~~membership contribution which shall be two and three fourths percent~~  
25 ~~of salary covered by old age and survivors insurance, and five~~

1 ~~percent above that amount. Commencing September 1, 1969, all~~  
2 ~~employees of the school district shall contribute an amount equal to~~  
3 ~~the membership contribution which shall be two and three fourths~~  
4 ~~percent of the first seven thousand eight hundred dollars of salary~~  
5 ~~or wages earned each fiscal year and five percent of salary or wages~~  
6 ~~earned above that amount in the same fiscal year. Commencing~~  
7 ~~September 1, 1976, all employees of the school district shall~~  
8 ~~contribute an amount equal to the membership contribution which shall~~  
9 ~~be two and nine tenths percent of the first seven thousand eight~~  
10 ~~hundred dollars of salary or wages earned each fiscal year and five~~  
11 ~~and twenty five hundredths percent of salary or wages earned above~~  
12 ~~that amount in the same fiscal year. Commencing on September 1, 1982,~~  
13 ~~all employees of the school district shall contribute an amount equal~~  
14 ~~to the membership contribution which shall be four and nine tenths~~  
15 ~~percent of the compensation earned in each fiscal year. Commencing~~  
16 ~~September 1, 1989, all employees of the school district shall~~  
17 ~~contribute an amount equal to the membership contribution which shall~~  
18 ~~be five and eight tenths percent of the compensation earned in each~~  
19 ~~fiscal year. Commencing September 1, 1995, all employees of the~~  
20 ~~school district shall contribute an amount equal to the membership~~  
21 ~~contribution which shall be six and three tenths percent of the~~  
22 ~~compensation earned in each fiscal year. Commencing September 1,~~  
23 ~~2007, all employees of the school district shall contribute an amount~~  
24 ~~equal to the membership contribution which shall be seven and three-~~  
25 ~~tenths percent of the compensation paid in each fiscal year.~~

1 Commencing September 1, 2009, all employees of the school district  
2 shall contribute an amount equal to the membership contribution which  
3 shall be eight and three-tenths percent of the compensation paid in  
4 each fiscal year. Commencing September 1, 2011, all employees of the  
5 school district shall contribute an amount equal to the membership  
6 contribution which shall be XX percent of the compensation paid in  
7 each fiscal year.

8 ~~(b) The contributions by the school district in any~~  
9 ~~fiscal year beginning on or after September 1, 1999, shall be the~~  
10 ~~greater of (i) one hundred percent of the contributions by the~~  
11 ~~employees for such fiscal year or (ii) such amount as may be~~  
12 ~~necessary to maintain the solvency of the system, as determined~~  
13 ~~annually by the board upon recommendation of the actuary and the~~  
14 ~~trustees.~~

15 ~~(e)-(b)~~ (b) The contributions by the school district in any  
16 fiscal year beginning on or after September 1, 2007, shall be the  
17 greater of (i) one hundred and one percent of the contributions by  
18 the employees for such fiscal year or (ii) such amount as may be  
19 necessary to maintain the solvency of the system, as determined  
20 annually by the board upon recommendation of the actuary and the  
21 trustees.

22 ~~(d)-(c)~~ (c) The employee's contribution shall be made in the  
23 form of a monthly deduction from compensation as provided in  
24 subsection (2) of this section. Every employee who is a member of the  
25 system shall be deemed to consent and agree to such deductions and

1 shall receipt in full for compensation, and payment to such employee  
2 of compensation less such deduction shall constitute a full and  
3 complete discharge of all claims and demands whatsoever for services  
4 rendered by such employee during the period covered by such payment  
5 except as to benefits provided under the Class V School Employees  
6 Retirement Act.

7           ~~(e)~~(d) After September 1, 1963, and prior to September  
8 1, 1969, all employees shall be credited with a membership service  
9 annuity which shall be nine-tenths of one percent of salary or wage  
10 covered by old age and survivors insurance and one and one-half  
11 percent of salary or wages above that amount, except that those  
12 employees who retire on or after August 31, 1969, shall be credited  
13 with a membership service annuity which shall be one percent of  
14 salary or wages covered by old age and survivors insurance and one  
15 and sixty-five hundredths percent of salary or wages above that  
16 amount for service performed after September 1, 1963, and prior to  
17 September 1, 1969. Commencing September 1, 1969, all employees shall  
18 be credited with a membership service annuity which shall be one  
19 percent of the first seven thousand eight hundred dollars of salary  
20 or wages earned by the employee during each fiscal year and one and  
21 sixty-five hundredths percent of salary or wages earned above that  
22 amount in the same fiscal year, except that all employees retiring on  
23 or after August 31, 1976, shall be credited with a membership service  
24 annuity which shall be one and forty-four hundredths percent of the  
25 first seven thousand eight hundred dollars of salary or wages earned

1 by the employee during such fiscal year and two and four-tenths  
2 percent of salary or wages earned above that amount in the same  
3 fiscal year and the retirement annuities of employees who have not  
4 retired prior to September 1, 1963, and who elected under the  
5 provisions of section 79-988 as such section existed immediately  
6 prior to February 20, 1982, not to become members of the system shall  
7 not be less than they would have been had they remained under any  
8 preexisting system to date of retirement.

9 ~~(f)~~—(e) Members of this system having the service  
10 qualifications of members of the School Retirement System of the  
11 State of Nebraska, as provided by section 79-926, shall receive the  
12 state service annuity provided by sections 79-933 to 79-935 and  
13 79-951.

14 (2) The school district shall pick up the employee  
15 contributions required by this section for all compensation paid on  
16 or after January 1, 1985, and the contributions so picked up shall be  
17 treated as employer contributions in determining federal tax  
18 treatment under the Internal Revenue Code, except that the school  
19 district shall continue to withhold federal income taxes based upon  
20 these contributions until the Internal Revenue Service or the federal  
21 courts rule that, pursuant to section 414(h) of the Internal Revenue  
22 Code, these contributions shall not be included as gross income of  
23 the employee until such time as they are distributed or made  
24 available. The school district shall pay these employee contributions  
25 from the same source of funds which is used in paying earnings to the

1 employee. The school district shall pick up these contributions by a  
2 salary deduction either through a reduction in the cash salary of the  
3 employee or a combination of a reduction in salary and offset against  
4 a future salary increase. Beginning September 1, 1995, the school  
5 district shall also pick up any contributions required by sections  
6 79-990, 79-991, and 79-992 which are made under an irrevocable  
7 payroll deduction authorization between the member and the school  
8 district, and the contributions so picked up shall be treated as  
9 employer contributions in determining federal tax treatment under the  
10 Internal Revenue Code, except that the school district shall continue  
11 to withhold federal and state income taxes based upon these  
12 contributions until the Internal Revenue Service rules that, pursuant  
13 to section 414(h) of the Internal Revenue Code, these contributions  
14 shall not be included as gross income of the employee until such time  
15 as they are distributed from the system. Employee contributions  
16 picked up shall be treated for all purposes of the Class V School  
17 Employees Retirement Act in the same manner and to the extent as  
18 employee contributions made prior to the date picked up.

19           Sec. 2. Section 79-1003, Revised Statutes Cumulative  
20 Supplement, 2010, is amended to read:

21           79-1003 For purposes of the Tax Equity and Educational  
22 Opportunities Support Act:

23           (1) Adjusted general fund operating expenditures means  
24 (a) for school fiscal years before school fiscal year 2007-08,  
25 general fund operating expenditures as calculated pursuant to

1 subdivision (21) of this section minus the transportation allowance  
2 and minus the special receipts allowance, (b) for school fiscal year  
3 2007-08, general fund operating expenditures as calculated pursuant  
4 to subdivision (21) of this section minus the sum of the  
5 transportation, special receipts, and distance education and  
6 telecommunications allowances, (c) for school fiscal year 2008-09,  
7 the difference of the product of the general fund operating  
8 expenditures as calculated pursuant to subdivision (21) of this  
9 section multiplied by the cost growth factor calculated pursuant to  
10 section 79-1007.10 minus the transportation allowance, special  
11 receipts allowance, poverty allowance, limited English proficiency  
12 allowance, distance education and telecommunications allowance,  
13 elementary site allowance, elementary class size allowance, summer  
14 school allowance, and focus school and program allowance, (d) for  
15 school fiscal year 2009-10, the difference of the product of the  
16 general fund operating expenditures as calculated pursuant to  
17 subdivision (21) of this section multiplied by the cost growth factor  
18 calculated pursuant to section 79-1007.10 minus the transportation  
19 allowance, special receipts allowance, poverty allowance, limited  
20 English proficiency allowance, distance education and  
21 telecommunications allowance, elementary site allowance, elementary  
22 class size allowance, summer school allowance, instructional time  
23 allowance, and focus school and program allowance, (e) for school  
24 fiscal years 2010-11 through 2012-13, the difference of the product  
25 of the general fund operating expenditures as calculated pursuant to

1 subdivision (21) of this section multiplied by the cost growth factor  
2 calculated pursuant to section 79-1007.10 minus the transportation  
3 allowance, special receipts allowance, poverty allowance, limited  
4 English proficiency allowance, distance education and  
5 telecommunications allowance, elementary site allowance, elementary  
6 class size allowance, summer school allowance, instructional time  
7 allowance, teacher education allowance, and focus school and program  
8 allowance, and (f) for school fiscal year 2013-14 and each school  
9 fiscal year thereafter, the difference of the product of the general  
10 fund operating expenditures as calculated pursuant to subdivision  
11 (21) of this section multiplied by the cost growth factor calculated  
12 pursuant to section 79-1007.10 minus the transportation allowance,  
13 special receipts allowance, poverty allowance, limited English  
14 proficiency allowance, distance education and telecommunications  
15 allowance, elementary site allowance, summer school allowance,  
16 instructional time allowance, teacher education allowance, and focus  
17 school and program allowance;

18 (2) Adjusted valuation means the assessed valuation of  
19 taxable property of each local system in the state, adjusted pursuant  
20 to the adjustment factors described in section 79-1016. Adjusted  
21 valuation means the adjusted valuation for the property tax year  
22 ending during the school fiscal year immediately preceding the school  
23 fiscal year in which the aid based upon that value is to be paid. For  
24 purposes of determining the local effort rate yield pursuant to  
25 section 79-1015.01, adjusted valuation does not include the value of

1 any property which a court, by a final judgment from which no appeal  
2 is taken, has declared to be nontaxable or exempt from taxation;

3 (3) Allocated income tax funds means the amount of  
4 assistance paid to a local system pursuant to section 79-1005.01 or  
5 79-1005.02 as adjusted by the minimum levy adjustment pursuant to  
6 section 79-1008.02;

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

11 (5) Average daily membership means the average daily  
12 membership for grades kindergarten through twelve attributable to the  
13 local system, as provided in each district's annual statistical  
14 summary, and includes the proportionate share of students enrolled in  
15 a public school instructional program on less than a full-time basis;

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

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

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

25 (9) Consolidate means to voluntarily reduce the number of

1 school districts providing education to a grade group and does not  
2 include dissolution pursuant to section 79-498;

3 (10) Department means the State Department of Education;

4 (11) District means any Class I, II, III, IV, V, or VI  
5 school district and, beginning with the calculation of state aid for  
6 school fiscal year 2011-12 and each school fiscal year thereafter, a  
7 unified system as defined in section 79-4,108;

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

10 (13) Equalization aid means the amount of assistance  
11 calculated to be paid to a local system pursuant to sections  
12 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and  
13 79-1022.02;

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

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

20 (16) Formula students means:

21 (a) For school fiscal years prior to school fiscal year  
22 2008-09, (i) for state aid certified pursuant to section 79-1022, the  
23 sum of fall membership from the school fiscal year immediately  
24 preceding the school fiscal year in which the aid is to be paid,  
25 multiplied by the average ratio of average daily membership to fall

1 membership for the second school fiscal year immediately preceding  
2 the school fiscal year in which aid is to be paid and the prior two  
3 school fiscal years, plus qualified early childhood education fall  
4 membership plus tuitioned students from the school fiscal year  
5 immediately preceding the school fiscal year in which the aid is to  
6 be paid and (ii) for final calculation of state aid pursuant to  
7 section 79-1065, the sum of average daily membership plus qualified  
8 early childhood education average daily membership plus tuitioned  
9 students from the school fiscal year immediately preceding the school  
10 fiscal year in which the aid was paid; and

11 (b) For school fiscal year 2008-09 and each school fiscal  
12 year thereafter, (i) for state aid certified pursuant to section  
13 79-1022, the sum of the product of fall membership from the school  
14 fiscal year immediately preceding the school fiscal year in which the  
15 aid is to be paid multiplied by the average ratio of average daily  
16 membership to fall membership for the second school fiscal year  
17 immediately preceding the school fiscal year in which the aid is to  
18 be paid and the prior two school fiscal years plus sixty percent of  
19 the qualified early childhood education fall membership plus  
20 tuitioned students from the school fiscal year immediately preceding  
21 the school fiscal year in which aid is to be paid minus the product  
22 of the number of students enrolled in kindergarten that is not full-  
23 day kindergarten from the fall membership multiplied by 0.5 and (ii)  
24 for final calculation of state aid pursuant to section 79-1065, the  
25 sum of average daily membership plus sixty percent of the qualified

1 early childhood education average daily membership plus tuitioned  
2 students minus the product of the number of students enrolled in  
3 kindergarten that is not full-day kindergarten from the average daily  
4 membership multiplied by 0.5 from the school fiscal year immediately  
5 preceding the school fiscal year in which aid was paid;

6 (17) Free lunch and free milk student means a student who  
7 qualified for free lunches or free milk from the most recent data  
8 available on November 1 of the school fiscal year immediately  
9 preceding the school fiscal year in which aid is to be paid;

10 (18) Full-day kindergarten means kindergarten offered by  
11 a district for at least one thousand thirty-two instructional hours;

12 (19) General fund budget of expenditures means the total  
13 budget of disbursements and transfers for general fund purposes as  
14 certified in the budget statement adopted pursuant to the Nebraska  
15 Budget Act, except that for purposes of the limitation imposed in  
16 section 79-1023 and the calculation pursuant to subdivision (2) of  
17 section 79-1027.01, the general fund budget of expenditures does not  
18 include any special grant funds, exclusive of local matching funds,  
19 received by a district;

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

22 (21) General fund operating expenditures means:

23 (a) For state aid calculated for school fiscal years  
24 prior to school fiscal year 2008-09, the total general fund  
25 expenditures minus categorical funds, tuition paid, transportation

1 fees paid to other districts, adult education, summer school,  
2 community services, redemption of the principal portion of general  
3 fund debt service, retirement incentive plans, staff development  
4 assistance, and transfers from other funds into the general fund for  
5 the second school fiscal year immediately preceding the school fiscal  
6 year in which aid is to be paid as reported on the annual financial  
7 report prior to December 1 of the school fiscal year immediately  
8 preceding the school fiscal year in which aid is to be paid;

9 (b) For state aid calculated for school fiscal year  
10 2008-09, as reported for the second school fiscal year immediately  
11 preceding the school fiscal year in which aid is to be paid on the  
12 annual financial report submitted prior to December 1 of the school  
13 fiscal year immediately preceding the school fiscal year in which aid  
14 is to be paid, the total general fund expenditures minus (i) the  
15 amount of all receipts to the general fund, to the extent that such  
16 receipts are not included in local system formula resources, from  
17 early childhood education tuition, summer school tuition, educational  
18 entities as defined in section 79-1201.01 for providing distance  
19 education courses through the Educational Service Unit Coordinating  
20 Council to such educational entities, private foundations,  
21 individuals, associations, charitable organizations, the textbook  
22 loan program authorized by section 79-734, and federal impact aid,  
23 (ii) the amount of expenditures for categorical funds, tuition paid,  
24 transportation fees paid to other districts, adult education,  
25 community services, redemption of the principal portion of general

1 fund debt service, retirement incentive plans authorized by section  
2 79-855, and staff development assistance authorized by section  
3 79-856, and (iii) the amount of any transfers from the general fund  
4 to any bond fund and transfers from other funds into the general  
5 fund;

6 (c) For state aid calculated for school fiscal year  
7 2009-10, as reported on the annual financial report for the second  
8 school fiscal year immediately preceding the school fiscal year in  
9 which aid is to be paid, the total general fund expenditures minus  
10 (i) the amount of all receipts to the general fund, to the extent  
11 that such receipts are not included in local system formula  
12 resources, from early childhood education tuition, summer school  
13 tuition, educational entities as defined in section 79-1201.01 for  
14 providing distance education courses through the Educational Service  
15 Unit Coordinating Council to such educational entities, private  
16 foundations, individuals, associations, charitable organizations, the  
17 textbook loan program authorized by section 79-734, and federal  
18 impact aid, (ii) the amount of expenditures for categorical funds,  
19 tuition paid, transportation fees paid to other districts, adult  
20 education, community services, redemption of the principal portion of  
21 general fund debt service, retirement incentive plans authorized by  
22 section 79-855, and staff development assistance authorized by  
23 section 79-856, (iii) the amount of any transfers from the general  
24 fund to any bond fund and transfers from other funds into the general  
25 fund, and (iv) any legal expenses in excess of fifteen-hundredths of

1 one percent of the formula need for the school fiscal year in which  
2 the expenses occurred; and

3 (d) For state aid calculated for school fiscal year  
4 2010-11 and each school fiscal year thereafter, as reported on the  
5 annual financial report for the second school fiscal year immediately  
6 preceding the school fiscal year in which aid is to be paid, the  
7 total general fund expenditures minus (i) the amount of all receipts  
8 to the general fund, to the extent that such receipts are not  
9 included in local system formula resources, from early childhood  
10 education tuition, summer school tuition, educational entities as  
11 defined in section 79-1201.01 for providing distance education  
12 courses through the Educational Service Unit Coordinating Council to  
13 such educational entities, private foundations, individuals,  
14 associations, charitable organizations, the textbook loan program  
15 authorized by section 79-734, federal impact aid, and levy override  
16 elections pursuant to section 77-3444, (ii) the amount of  
17 expenditures for categorical funds, tuition paid, transportation fees  
18 paid to other districts, adult education, community services,  
19 redemption of the principal portion of general fund debt service,  
20 retirement incentive plans authorized by section 79-855, and staff  
21 development assistance authorized by section 79-856, (iii) the amount  
22 of any transfers from the general fund to any bond fund and transfers  
23 from other funds into the general fund, (iv) any legal expenses in  
24 excess of fifteen-hundredths of one percent of the formula need for  
25 the school fiscal year in which the expenses occurred, (v)

1 expenditures to pay for sums agreed to be paid by a school district  
2 to certificated employees in exchange for a voluntary termination  
3 occurring prior to July 1, 2009, and (vi)(A) expenditures in school  
4 fiscal years 2009-10 through 2013-14 to pay for employer  
5 contributions pursuant to subsection (2) of section 79-958 to the  
6 School Employees Retirement System of the State of Nebraska to the  
7 extent that such expenditures exceed the employer contributions under  
8 such subsection that would have been made at a contribution rate of  
9 seven and thirty-five hundredths percent or (B) expenditures in  
10 school fiscal years 2009-10 through 2013-14 to pay for school  
11 district contributions pursuant to subdivision ~~(1)(e)(i)~~ (1)(b)(i) of  
12 section 79-9,113 to the Class V School Employees Retirement System to  
13 the extent that such expenditures exceed the school district  
14 contributions under such subdivision that would have been made at a  
15 contribution rate of seven and thirty-seven hundredths percent.

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

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

25 (23) Income tax liability means the amount of the

1 reported income tax liability for resident individuals pursuant to  
2 the Nebraska Revenue Act of 1967 less all nonrefundable credits  
3 earned and refunds made;

4 (24) Income tax receipts means the amount of income tax  
5 collected pursuant to the Nebraska Revenue Act of 1967 less all  
6 nonrefundable credits earned and refunds made;

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

21 (26) Local system means a learning community for purposes  
22 of calculation of state aid for the second full school fiscal year  
23 after becoming a learning community and each school fiscal year  
24 thereafter, a unified system, a Class VI district and the associated  
25 Class I districts, or a Class II, III, IV, or V district and any

1 affiliated Class I districts or portions of Class I districts. The  
2 membership, expenditures, and resources of Class I districts that are  
3 affiliated with multiple high school districts will be attributed to  
4 local systems based on the percent of the Class I valuation that is  
5 affiliated with each high school district;

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

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

24 (29) Most recently available complete data year means the  
25 most recent single school fiscal year for which the annual financial

1 report, fall school district membership report, annual statistical  
2 summary, Nebraska income tax liability by school district for the  
3 calendar year in which the majority of the school fiscal year falls,  
4 and adjusted valuation data are available;

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

17 (31) Qualified early childhood education average daily  
18 membership means the product of the average daily membership for  
19 school fiscal year 2006-07 and each school fiscal year thereafter of  
20 students who will be eligible to attend kindergarten the following  
21 school year and are enrolled in an early childhood education program  
22 approved by the department pursuant to section 79-1103 for such  
23 school district for such school year multiplied by the ratio of the  
24 actual instructional hours of the program divided by one thousand  
25 thirty-two if: (a) The program is receiving a grant pursuant to such

1 section for the third year; (b) the program has already received  
2 grants pursuant to such section for three years; or (c) the program  
3 has been approved pursuant to subsection (5) of section 79-1103 for  
4 such school year and the two preceding school years, including any  
5 such students in portions of any of such programs receiving an  
6 expansion grant;

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

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

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

1 consolidation;

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

4 (36) Sparse local system means a local system that is not  
5 a very sparse local system but which meets the following criteria:

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

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

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

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

24 (37) Special education means specially designed  
25 kindergarten through grade twelve instruction pursuant to section

1 79-1125, and includes special education transportation;

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

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

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

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

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

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

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

25 (45) Temporary aid adjustment factor means (a) for school

1 fiscal years before school fiscal year 2007-08, one and one-fourth  
2 percent of the sum of the local system's transportation allowance,  
3 the local system's special receipts allowance, and the product of the  
4 local system's adjusted formula students multiplied by the average  
5 formula cost per student in the local system's cost grouping and (b)  
6 for school fiscal year 2007-08, one and one-fourth percent of the sum  
7 of the local system's transportation allowance, special receipts  
8 allowance, and distance education and telecommunications allowance  
9 and the product of the local system's adjusted formula students  
10 multiplied by the average formula cost per student in the local  
11 system's cost grouping;

12 (46) Tuitioned students means students in kindergarten  
13 through grade twelve of the district whose tuition is paid by the  
14 district to some other district or education agency; and

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

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

23 (b)(i) More than four hundred fifty square miles in the  
24 local system, (ii) less than one-half student per square mile in the  
25 local system, and (iii) more than fifteen miles between each high

1 school attendance center and the next closest high school attendance  
2 center on paved roads.

3           Sec. 3. Section 79-1028.01, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5           79-1028.01 (1) For each school fiscal year, a school  
6 district may exceed its maximum general fund budget of expenditures  
7 minus the special education budget of expenditures by a specific  
8 dollar amount for:

9           (a) Expenditures for repairs to infrastructure damaged by  
10 a natural disaster which is declared a disaster emergency pursuant to  
11 the Emergency Management Act;

12           (b) Expenditures for judgments, except judgments or  
13 orders from the Commission of Industrial Relations, obtained against  
14 a school district which require or obligate a school district to pay  
15 such judgment, to the extent such judgment is not paid by liability  
16 insurance coverage of a school district;

17           (c) Expenditures pursuant to the Retirement Incentive  
18 Plan authorized in section 79-855 or the Staff Development Assistance  
19 authorized in section 79-856;

20           (d) Expenditures of incentive payments or base fiscal  
21 year incentive payments to be received in such school fiscal year  
22 pursuant to section 79-1011;

23           (e) Expenditures of amounts received from educational  
24 entities as defined in section 79-1201.01 for providing distance  
25 education courses through the Educational Service Unit Coordinating

1 Council to such educational entities;

2 (f) Either (i) the first and second school fiscal years  
3 the district will be participating in Network Nebraska for the full  
4 school fiscal year or (ii) school fiscal year 2008-09, if the school  
5 district participated in Network Nebraska for all of school fiscal  
6 year 2007-08, for the difference of the estimated expenditures for  
7 such school fiscal year for telecommunications services, access to  
8 data transmission networks that transmit data to and from the school  
9 district, and the transmission of data on such networks as such  
10 expenditures are defined by the department for purposes of the  
11 distance education and telecommunications allowance minus the dollar  
12 amount of such expenditures for the second school fiscal year  
13 preceding the first full school fiscal year the district participates  
14 in Network Nebraska;

15 (g) Expenditures to pay another school district for the  
16 transfer of land from such other school district;

17 (h) Expenditures in school fiscal years 2009-10 through  
18 2013-14 to pay for employer contributions pursuant to subsection (2)  
19 of section 79-958 to the School Employees Retirement System of the  
20 State of Nebraska to the extent that such expenditures exceed the  
21 employer contributions under such subsection that would have been  
22 made at a contribution rate of seven and thirty-five hundredths  
23 percent;

24 (i) Expenditures in school fiscal years 2009-10 through  
25 2013-14 to pay for school district contributions pursuant to

1 subdivision ~~(1)(e)(i)~~(1)(b)(i) of section 79-9,113 to the Class V  
2 School Employees Retirement System to the extent that such  
3 expenditures exceed the school district contributions under such  
4 subdivision that would have been made at a contribution rate of seven  
5 and thirty-seven hundredths percent;

6 (j) Expenditures for sums agreed to be paid by a school  
7 district to certificated employees in exchange for a voluntary  
8 termination occurring prior to July 1, 2009;

9 (k) Expenditures for new elementary attendance sites in  
10 the first year of operation or the first year of operation after  
11 being closed for at least one school year if such elementary  
12 attendance site will most likely qualify for the elementary site  
13 allowance in the immediately following school fiscal year as  
14 determined by the state board; and

15 (l) Any expenditures in school fiscal years 2016-17 and  
16 2017-18 of amounts specified in the notice provided by the  
17 Commissioner of Education pursuant to section 79-309.01 for teacher  
18 performance pay.

19 (2) The state board shall approve, deny, or modify the  
20 amount allowed for any exception to the maximum general fund budget  
21 of expenditures minus the special education budget of expenditures  
22 pursuant to this section.

23 Sec. 4. Original sections 79-9,113, 79-1003, and  
24 79-1028.01, Revised Statutes Cumulative Supplement, 2010, are  
25 repealed.

1                   Sec. 5. Since an emergency exists, this act takes effect  
2   when passed and approved according to law.