

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 357

Introduced by Raikes, 25

Read first time January 11, 2005

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 79-4,108 and
2 79-1010, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to unified systems; to harmonize
4 provisions; to repeal the original sections; and to
5 declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-4,108, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-4,108. (1) Unified system means two or more Class II
4 or III school districts participating in an interlocal agreement
5 under the Interlocal Cooperation Act with approval from the State
6 Committee for the Reorganization of School Districts. The
7 interlocal agreement may include Class I districts if the entire
8 valuation is included in the unified system. The interlocal
9 agreement shall provide for a minimum term of three school years.
10 The agreement shall provide that all property tax and state aid
11 resources shall be shared by the unified system and that a board
12 composed of school board members, with at least one school board
13 member from each district, shall determine the general fund levy,
14 within the limitations placed on school districts and
15 multiple-district school systems pursuant to section 77-3442, to be
16 applied in all participating districts and shall determine the
17 distribution of property tax and state aid resources within the
18 unified system. For purposes of section 77-3442, the
19 multiple-district school system shall include all of the Class I,
20 II, and III districts participating in the unified system and the
21 Class I districts or portions thereof affiliated with any of the
22 participating Class II and III districts. The interlocal agreement
23 shall also provide that certificated staff will be employees of the
24 unified system. For any certificated staff employed by the unified
25 system, tenure and seniority as of the effective date of the
26 interlocal agreement shall be transferred to the unified system and
27 tenure and seniority provisions shall continue in the unified
28 system except as provided in sections 79-850 to 79-858. If a

1 district withdraws from the unified system or if the interlocal
2 agreement expires and is not renewed, certificated staff employed
3 by a participating district immediately prior to the unification
4 shall be reemployed by the original district and tenure and
5 seniority as of the effective date of the withdrawal or expiration
6 shall be transferred to the original district. The certificated
7 staff hired by the unified system but not employed by a
8 participating district immediately prior to the unification shall
9 be subject to the reduction-in-force policy of the unified system.
10 The interlocal agreement shall also require participating districts
11 to pay obligations of the unified system pursuant to sections
12 79-850 to 79-858 on a pro rata basis based on the adjusted
13 valuations if a district withdraws from the unified system or if
14 the interlocal agreement expires and is not renewed. Additional
15 provisions in the interlocal agreement shall be determined by the
16 participating districts and shall encourage cooperation within the
17 unified system.

18 (2) Application for unification shall be made to the
19 state committee. The application shall contain a copy of the
20 interlocal agreement signed by the president of each participating
21 school board. The state committee shall approve or disapprove
22 applications for unification within forty days after receipt of the
23 application. If the interlocal agreement complies with subsection
24 (1) of this section and all school boards of the participating
25 districts have approved the interlocal agreement, the state
26 committee shall approve the application. Unification agreements
27 shall be effective on June 1 following approval from the state
28 committee for status as a unified system or on the date specified

1 in the interlocal agreement, except that the date shall be on or
2 after June 1 and on or before September 1 for a specified year.
3 The board established in the interlocal agreement may begin meeting
4 any time after the application has been approved by the state
5 committee.

6 (3) Upon granting the application for unification, the
7 State Department of Education shall recognize the unified system as
8 a single Class II or III district for state aid, budgeting,
9 accreditation, enrollment of students, state programs, and
10 reporting. The unified system shall submit a single report
11 document for each of the reports required of school districts
12 pursuant to Chapter 79 and shall submit a single budget document
13 pursuant to the Nebraska Budget Act and sections 13-518 to 13-522.
14 The class of district shall be the same as the majority of
15 participating districts, excluding Class I districts. If there are
16 an equal number of Class II and Class III districts in the unified
17 system, the unified system shall be recognized by the department as
18 a Class III district.

19 (4) The school districts participating in a unified
20 system shall retain their separate identities for all purposes
21 except those specified in this section, and participation in a
22 unified system shall not be considered a reorganization.

23 (5) The withdrawal of a participating school district
24 from a unified system or dissolution of a unified system shall
25 occur only if each participating school district in such unified
26 system either will be merged with at least one other school
27 district or will continue participation in such unified system with
28 at least one other participating school district following such

1 withdrawal or dissolution. The withdrawal of a participating
2 school district from a unified system or dissolution of a unified
3 system shall be accomplished and the rights and liabilities of the
4 participating school districts determined through an action for
5 declaratory judgment pursuant to the Uniform Declaratory Judgments
6 Act. An action under the act praying for the withdrawal of a
7 participating school, dissolution of the unified system, or a
8 declaration of the rights and liabilities of the participating
9 school districts may be brought by the school board of any
10 participating school district. The court shall have jurisdiction
11 to determine all matters relating to the rights and liabilities of
12 the participating school districts, including, but not limited to,
13 the allocation among the participating school districts of (a) the
14 certificated staff employed by the unified system among the
15 participating school districts, (b) the real and personal property
16 acquired by and held in the name of the unified system, (c) the
17 local, state, and federal revenue of the unified system, including
18 state aid to be paid to the unified system for the year following
19 the withdrawal of a participating school district or the
20 dissolution of the unified system, and (d) the liability for the
21 repayment of any incentive aid received by the unified system and
22 its participating school districts under section 79-1010, which
23 liability shall be subtracted from the state aid of the
24 participating school districts to which such repayment is allocated
25 for the school fiscal years following the last school fiscal year
26 of participation of a withdrawing school district or the operation
27 of the dissolved unified system. The State Department of Education
28 shall implement and enforce all terms of any decree of declaratory

1 judgment entered pursuant to this section.

2 (6) No new unified system shall be approved or ordered
3 into effect by the State Committee for the Reorganization of School
4 Districts on or after the effective date of this act.

5 Sec. 2. Section 79-1010, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 79-1010. (1) To encourage consolidation and unification
8 of school districts, incentives shall be paid to reorganized
9 districts and unified systems in certain size ranges for a
10 three-year period to reward the reorganized districts or unified
11 systems for their efforts to increase efficiency in the delivery of
12 educational services. This section shall only apply to
13 consolidations and unifications with an effective date after May
14 31, 1996, and before August 2, 2001.

15 (2) To qualify for incentive payments under this section,
16 the consolidation or unification must be approved for incentive
17 payments by the State Committee for the Reorganization of School
18 Districts. For consolidations, when reviewing a petition for the
19 boundary change pursuant to section 79-413, the state committee
20 shall issue a preliminary approval or disapproval for incentive
21 payments along with a notice specifying application procedures.
22 For consolidations, affected school districts shall file an
23 application for incentive payments with the state committee within
24 thirty days following the issuance of the boundary change order
25 pursuant to subsection (1) of section 79-479. For unifications,
26 the unified system or participating districts shall file an
27 application for incentive payments with the state committee either
28 following approval of the application for unification or in

1 conjunction with the application for unification. The state
2 committee shall, within thirty days, approve or disapprove
3 incentive payments. For consolidations, if there are no material
4 changes in the reorganization plan between a preliminary approval
5 and application for incentive payments following the boundary
6 change order, the state committee shall approve the incentive
7 payments. If a preliminary disapproval was issued or if there was
8 a material change in the reorganization plan prior to the issuance
9 of the boundary change order, the state committee shall reconsider
10 the approval or disapproval of incentive payments. The state
11 committee shall make the determination regarding whether or not any
12 changes in a reorganization plan are material for the purpose of
13 approving or disapproving incentive payments.

14 (3) For incentive payments to be approved for either
15 consolidations or unifications by the state committee, a
16 reorganization study, including efficiency, demographic,
17 curriculum, facility, financial, and community components, must be
18 completed. If a study containing such elements is completed and
19 the reorganization plan or unification agreement will most likely
20 result in more efficiency in the delivery of educational services
21 or greater educational opportunities, the state committee may
22 approve incentive payments for the affected districts.

23 (4) (a) Incentive payments shall be based on the number of
24 students moving from one size range to a lower cost size range
25 based on the average daily membership in each affected district in
26 the school fiscal year immediately preceding the first school
27 fiscal year the boundary change or unification is in effect and the
28 average daily membership the consolidated district or unified

1 system would have had following the boundary change or unification
 2 if it had occurred in the school fiscal year immediately preceding
 3 the first school fiscal year the boundary change or unification is
 4 in effect. The reorganized school districts or unified systems
 5 existing after the qualified boundary change or unification shall
 6 receive incentive payments based on the following criteria for each
 7 student meeting the criteria:

8 For grades one through six, including full-day
 9 kindergarten:

10 Average daily 11 membership range 12 before 13 consolidation 14 or unification	Average daily membership range with boundary change or unification	Incentive payment per student who moves from the average daily membership range before consolidation or unification to the average daily membership range with boundary change or unification
24 .01 - 101.00	101.01 - 185.00	\$ 590
25 .01 - 101.00	185.01 - 375.00	890
26 .01 - 101.00	375.01 - 1,000.00	1,190
27 .01 - 101.00	1,000.01 - 1,900.00	1,320
28 101.01 - 185.00	185.01 - 375.00	300

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1	101.01 -	185.00	375.01 -	1,000.00	590
2	101.01 -	185.00	1,000.01 -	1,900.00	730
3	185.01 -	375.00	375.01 -	1,000.00	300
4	185.01 -	375.00	1,000.01 -	1,900.00	430
5	375.01 -	1,000.00	1,000.01 -	1,900.00	130
6	For grades seven and eight:				
7	Average daily		Average daily		Incentive payment
8	membership range		membership range with		per student who
9	before		boundary change		moves from the
10	consolidation		or unification		average daily
11	or unification				membership range
12					before
13					consolidation
14					or unification
15					to the
16					average daily
17					membership range
18					with boundary
19					change or
20					unification
21	.01 -	31.00	31.01 -	57.00	\$ 710
22	.01 -	31.00	57.01 -	115.00	1,070
23	.01 -	31.00	115.01 -	308.00	1,430
24	.01 -	31.00	308.01 -	585.00	1,590
25	31.01 -	57.00	57.01 -	115.00	360
26	31.01 -	57.00	115.01 -	308.00	710
27	31.01 -	57.00	308.01 -	585.00	870
28	57.01 -	115.00	115.01 -	308.00	350

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1	57.01 - 115.00	308.01 - 585.00	510
2	115.01 - 308.00	308.01 - 585.00	160
3	For grades nine through twelve:		
4	Average daily	Average daily	Incentive payment
5	membership range	membership range with	per student who
6	before	boundary change	moves from the
7	consolidation	or unification	average daily
8	or unification		membership range
9			before
10			consolidation
11			or unification
12			to the
13			average daily
14			membership range
15			with boundary
16			change
17			or unification
18	.01 - 50.00	50.01 - 75.00	\$1,640
19	.01 - 50.00	75.01 - 100.00	2,550
20	.01 - 50.00	100.01 - 150.00	2,924
21	.01 - 50.00	150.01 - 250.00	3,180
22	.01 - 50.00	250.01 - 500.00	3,450
23	.01 - 50.00	500.01 - 1,000.00	3,750
24	50.01 - 75.00	75.01 - 100.00	910
25	50.01 - 75.00	100.01 - 150.00	1,280
26	50.01 - 75.00	150.01 - 250.00	1,540
27	50.01 - 75.00	250.01 - 500.00	1,810
28	50.01 - 75.00	500.01 - 1,000.00	2,110

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1	75.01 - 100.00	100.01 - 150.00	380
2	75.01 - 100.00	150.01 - 250.00	630
3	75.01 - 100.00	250.01 - 500.00	900
4	75.01 - 100.00	500.01 - 1,000.00	1,200
5	100.01 - 150.00	150.01 - 250.00	260
6	100.01 - 150.00	250.01 - 500.00	530
7	100.01 - 150.00	500.01 - 1,000.00	830
8	150.01 - 250.00	250.01 - 500.00	270
9	150.01 - 250.00	500.01 - 1,000.00	570
10	250.01 - 500.00	500.01 - 1,000.00	300

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

26 (5) Except as otherwise provided in subsection (6) of
27 this section, two million dollars shall be set aside for school
28 fiscal years 1999-00 and 2000-01 and one million six hundred

1 sixteen thousand three hundred fifty-four dollars shall be set
2 aside for school fiscal year 2001-02 for base fiscal year incentive
3 payments pursuant to subsection (6) of this section. All other
4 payments pursuant to this section shall be paid directly to the
5 consolidated district or unified system from the Tax Equity and
6 Educational Opportunities Fund.

7 (6) Base fiscal year incentive payments shall be
8 calculated as of August 2 immediately preceding the base fiscal
9 year and shall be paid directly to the consolidated district or
10 unified system from the amount set aside for such school fiscal
11 year from the Tax Equity and Educational Opportunities Fund
12 pursuant to subsection (5) of this section. The payments shall be
13 made in ten as nearly as possible equal payments on the last
14 business day of each month, beginning in September and ending the
15 following June, for the base fiscal year. If the total amount of
16 base fiscal year incentive payments for that school fiscal year
17 exceeds the amount set aside for such school fiscal year, the base
18 fiscal year incentive payments shall be reduced proportionately so
19 that the total amount of base fiscal year incentive payments equals
20 the amount set aside for such school fiscal year pursuant to
21 subsection (5) of this section. The base fiscal year incentive
22 payments shall not be included in local system formula resources as
23 calculated under section 79-1018.01. No base fiscal year incentive
24 payments shall be made pursuant to this subsection after July 1,
25 2002.

26 (7)(a) For consolidations, one hundred percent of the
27 amount calculated pursuant to subsection (4) of this section shall
28 be included in the distribution of state aid for each of the first

1 three consecutive school fiscal years beginning with the base
2 fiscal year or two consecutive school fiscal years following the
3 base fiscal year if payments were made in the base fiscal year
4 pursuant to subsection (6) of this section. For unifications, one
5 hundred percent of the amount calculated pursuant to subsection (4)
6 of this section shall be included in the distribution of state aid
7 for the first school fiscal year beginning with the base fiscal
8 year, seventy-five percent for the second school fiscal year
9 beginning with the base fiscal year, and fifty percent for the
10 third school fiscal year beginning with the base fiscal year. If a
11 unified system consolidates and the boundary change takes effect
12 before August 2, 2001, the consolidated district will be eligible
13 to receive seventy-five percent of the amount originally calculated
14 pursuant to subsection (4) of this section in the base fiscal year.
15 If a consolidated district is still receiving incentive payments
16 for a unification in the base fiscal year, the payments for the
17 remainder of the first three years will be at one hundred percent
18 of the amount calculated pursuant to subsection (4) of this section
19 and in the fourth year, the district will receive the difference
20 between the incentive payments received and three hundred percent
21 of the amount calculated pursuant to subsection (4) of this
22 section. If before August 2, 2001, additional districts are added
23 to the unified system or are added in a consolidation, the
24 additional incentives shall be calculated by the department and
25 added to the incentive payments.

26 (b) For local systems that received base fiscal year
27 incentive payments prior to school fiscal year 2001-02 for a
28 consolidation that included two districts which entered into an

1 agreement under the Interlocal Cooperation Act in which one
2 district did not offer instruction for either grades seven through
3 twelve or nine through twelve and contracted with the other
4 district for the education of seventh through twelfth grade
5 students or ninth through twelfth grade students for the school
6 year prior to the consolidation, a calculation shall be made for
7 additional incentives. The additional incentives shall be
8 calculated pursuant to subsection (4) of this section, except that
9 the average daily membership before consolidation shall equal the
10 seventh through twelfth grade students or ninth through twelfth
11 grade students who were being educated outside their resident
12 district pursuant to the agreement by a school that is in the local
13 system receiving the incentives. The June 30, 2001, and June 30,
14 2002, state aid payments for such local system shall include an
15 amount equal to the additional incentives calculated pursuant to
16 this subsection. An amount equal to the additional incentives
17 shall also be included in the reorganization incentives for state
18 aid to be paid in the 2002-03 school fiscal year, subject to any
19 reduction that may be required pursuant to subsection (9) of this
20 section.

21 (8) If, prior to the beginning of the eighth school year
22 of operating as a unified system, the unified system (a)
23 discontinues its status as a unified system and (b) does not
24 consolidate, the districts in the unified system shall pay back the
25 incentives. The total incentives paid to the unified system shall
26 be divided between the districts based on the adjusted valuation of
27 each district in the year prior to the discontinuation of the
28 unified system, and each district's share shall be paid back

1 through reductions in state aid in equal amounts for five years
2 unless otherwise provided in a decree of declaratory judgment
3 entered by a court in an action for declaratory judgment filed
4 pursuant to section 79-4,108. If a district withdraws from a
5 unified system prior to the beginning of the eighth school year of
6 participating in the unified system, the district shall pay back
7 the incentives attributable to the district's participation in the
8 unified system through reductions in state aid in equal amounts for
9 five years. The total incentives paid shall include interest
10 calculated from the date of payment until the estimated repayment
11 at the rate specified in section 45-104.02 as of the expiration of
12 the agreement or the effective date of withdrawal. If the state
13 aid is less than the repayment amount in any school fiscal year,
14 the remaining repayment will reduce state aid in future school
15 fiscal years.

16 (9) If the total amount of incentive payments to school
17 districts for a school year exceeds one percent of the
18 appropriation to the Tax Equity and Educational Opportunities Fund
19 minus two million dollars, the incentive payments shall be reduced
20 proportionately so that the total amount of incentive payments to
21 school districts equals one percent of the appropriation to the Tax
22 Equity and Educational Opportunities Fund minus two million
23 dollars. The payments shall not be included in local system
24 formula resources as calculated under section 79-1018.01. No
25 incentive payments shall be made pursuant to this section after
26 July 1, 2004.

27 Sec. 3. Original sections 79-4,108 and 79-1010, Reissue
28 Revised Statutes of Nebraska, are repealed.

1 Sec. 4. Since an emergency exists, this act takes effect
2 when passed and approved according to law.