

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 21**

FINAL READING

Introduced by Raikes, 25

Read first time January 4, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities  
2 Support Act; to amend sections 79-1007.02 and 79-1007.10,  
3 Revised Statutes Cumulative Supplement, 2006, and  
4 sections 79-1022, 79-1026, 79-1027, and 79-1031.01,  
5 Revised Statutes Cumulative Supplement, 2006, as affected  
6 by Referendum 2006, No. 422; to change provisions  
7 relating to cost growth factor; to harmonize provisions;  
8 to repeal the original sections; and to declare an  
9 emergency.

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

1                   Section 1. Section 79-1007.02, Revised Statutes  
2 Cumulative Supplement, 2006, is amended to read:

3                   79-1007.02 For state aid calculated for school fiscal  
4 year 1998-99 and each school fiscal year thereafter:

5                   (1) Using data from the annual financial reports for the  
6 second school fiscal year immediately preceding the school fiscal  
7 year in which aid is to be paid, the annual statistical summary  
8 reports for the school fiscal year immediately preceding the school  
9 fiscal year in which aid is to be paid, the fall membership reports  
10 and supplements thereto for the school fiscal year immediately  
11 preceding the school fiscal year in which aid is to be paid,  
12 and the school district census as reported under sections 79-524  
13 and 79-578 for the second school fiscal year preceding the school  
14 fiscal year in which aid is to be paid, the department shall  
15 divide the local systems into three cost groupings prior to the  
16 certification of state aid based upon the following criteria:

17                   (a) The very sparse cost grouping will consist of local  
18 systems that have (i) (A) less than one-half student per square  
19 mile in each county in which each high school attendance center  
20 is located, based on the school district census, (B) less than  
21 one formula student per square mile in the local system, and (C)  
22 more than fifteen miles between the high school attendance center  
23 and the next closest high school attendance center on paved roads  
24 or (ii) (A) more than four hundred fifty square miles in the local  
25 system, (B) less than one-half student per square mile in the local

1 system, and (C) more than fifteen miles between each high school  
2 attendance center and the next closest high school attendance  
3 center on paved roads;

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

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

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

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

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

25 (c) The standard cost grouping will consist of local

1 systems that do not qualify for the very sparse or the sparse cost  
2 groupings.

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

9 (2) (a) The department shall calculate the average formula  
10 cost per student in each cost grouping by dividing the total  
11 estimated general fund operating expenditures for the cost grouping  
12 by the difference between the total adjusted formula students for  
13 all local systems in the cost grouping minus (i) the adjusted  
14 formula students attributed to early childhood education programs  
15 approved by the department pursuant to section 79-1103 for the  
16 first two school fiscal years for which students attributed to  
17 early childhood education programs approved by the department  
18 pursuant to section 79-1103 are being included in the calculation  
19 of state aid for the local system and (ii) for the first two  
20 school fiscal years immediately following the school fiscal year in  
21 which a district in the local system received an expansion grant  
22 pursuant to section 79-1103, the difference between the adjusted  
23 formula students attributed to early childhood education programs  
24 approved by the department pursuant to section 79-1103 for the  
25 school fiscal year immediately following the school fiscal year in

1 which a district in the local system received an expansion grant  
2 minus the adjusted formula students attributed to early childhood  
3 education programs approved by the department pursuant to section  
4 79-1103 for the school fiscal year in which a district in the  
5 local system received an expansion grant. For the calculation of  
6 state aid for school fiscal year 1999-00 and for each school fiscal  
7 year thereafter, the average formula cost per student in each cost  
8 grouping shall not be recalculated for the final calculation of  
9 state aid pursuant to section 79-1065. The calculation of total  
10 adjusted formula students for purposes of this subdivision shall  
11 take into account the requirements of subdivision (2) of section  
12 79-1007.01. For school fiscal years prior to school fiscal year  
13 2008-09, the total estimated general fund operating expenditures  
14 for the cost grouping is equal to the total adjusted general fund  
15 operating expenditures for all local systems in the cost grouping  
16 multiplied by a cost growth factor. For school fiscal year 2008-09  
17 and each school fiscal year thereafter, the total estimated general  
18 fund operating expenditures for the cost grouping is equal to the  
19 total adjusted general fund operating expenditures for all local  
20 systems in the cost grouping.

21 (b) The cost growth factor for each cost grouping is  
22 equal to the sum of: (i) One; plus (ii) the product of two  
23 times the ratio of the difference ~~between~~ of (A) the formula  
24 students attributable to the cost grouping without weighting or  
25 adjustment pursuant to section 79-1007.01 minus the qualified

1 early childhood education fall membership attributable to the  
2 cost grouping without such weighting or adjustment for state aid  
3 certified pursuant to section 79-1022 and minus (B) the difference  
4 of the sum of the average daily membership plus tuitioned students  
5 attributable to the cost grouping for the most recently available  
6 complete data year minus the qualified early childhood education  
7 average daily membership attributable to the cost grouping without  
8 such weighting or adjustment for the most recently available  
9 complete data year divided by the difference of the sum of the  
10 average daily membership plus tuitioned students attributable to  
11 the cost grouping for the most recently available complete data  
12 year minus the qualified early childhood education average daily  
13 membership attributable to the cost grouping without such weighting  
14 or adjustment for the most recently available complete data year,  
15 except that the ratio shall not be less than zero; plus (iii) the  
16 basic allowable growth rate pursuant to section 79-1025 for the  
17 school fiscal year in which the aid is to be distributed; plus (iv)  
18 the basic allowable growth rate pursuant to section 79-1025 for  
19 the school fiscal year immediately preceding the school fiscal year  
20 in which the aid is to be distributed; plus (v) one-half of any  
21 additional growth rate allowed by special action of school boards  
22 for the school fiscal year in which the aid is to be distributed  
23 as determined for the school fiscal year immediately preceding  
24 the school fiscal year when aid is to be distributed; plus (vi)  
25 one-half of any additional growth rate allowed by special action of

1 the school boards for the school fiscal year immediately preceding  
2 the school fiscal year when the aid is to be distributed;

3 (3) For school fiscal years 2002-03 through 2006-07, each  
4 local system's formula need shall be calculated by subtracting  
5 the temporary aid adjustment factor from the sum of the local  
6 system's transportation allowance, the local system's special  
7 receipts allowance, and the product of the local system's adjusted  
8 formula students multiplied by the average formula cost per student  
9 in the local system's cost grouping. The calculation of total  
10 adjusted formula students for purposes of this subdivision shall  
11 take into account the requirements of subdivision (2) of section  
12 79-1007.01;

13 (4) For school fiscal year 2007-08, each local system's  
14 formula need shall be calculated by subtracting the temporary aid  
15 adjustment factor from the sum of the local system's transportation  
16 allowance, special receipts allowance, and distance education and  
17 telecommunications allowance and the product of the local system's  
18 adjusted formula students multiplied by the average formula cost  
19 per student in the local system's cost grouping. The calculation  
20 of total adjusted formula students for purposes of this subdivision  
21 shall take into account the requirements of subdivision (2) of  
22 section 79-1007.01; and

23 (5) For school fiscal year 2008-09 and each school fiscal  
24 year thereafter, each school district's formula need shall equal  
25 the greater of (a) the sum of the school district's transportation

1 allowance, elementary class size allowance, focus school and  
2 program allowance, limited English proficiency allowance, poverty  
3 allowance, special receipts allowance, and distance education  
4 and telecommunications allowance plus the product of the school  
5 district's adjusted formula students multiplied by the average  
6 formula cost per student in the school district's local system cost  
7 grouping or (b) if the school district's general fund levy was at  
8 or above ninety-nine cents per one hundred dollars of valuation  
9 for the previous year, the school district's prior year formula  
10 need multiplied by one hundred percent. The calculation of total  
11 adjusted formula students for purposes of this subdivision shall  
12 take into account the requirements of subdivision (2) of section  
13 79-1007.03.

14           Sec. 2. Section 79-1007.10, Revised Statutes Cumulative  
15 Supplement, 2006, is amended to read:

16           79-1007.10 For state aid calculated for school fiscal  
17 year 2008-09 and each school fiscal year thereafter, the cost  
18 growth factor for each cost grouping is equal to the sum of:  
19 (1) One; plus (2) the product of two times the ratio of the  
20 difference ~~between~~ of (a) the formula students attributable to  
21 the cost grouping without weighting or adjustment pursuant to  
22 section 79-1007.03 minus the qualified early childhood education  
23 fall membership attributable to the cost grouping without such  
24 weighting or adjustment for state aid certified pursuant to  
25 section 79-1022 and minus (b) the difference of the sum of

1 the average daily membership plus tuitioned students attributable  
2 to the cost grouping for the most recently available complete  
3 data year minus the qualified early childhood education average  
4 daily membership attributable to the cost grouping without such  
5 weighting or adjustment for the most recently available complete  
6 data year divided by the difference of the sum of the average  
7 daily membership plus tuitioned students attributable to the cost  
8 grouping for the most recently available complete data year minus  
9 the qualified early childhood education average daily membership  
10 attributable to the cost grouping without such weighting or  
11 adjustment for the most recently available complete data year,  
12 except that the ratio shall not be less than zero; plus (3) the  
13 basic allowable growth rate pursuant to section 79-1025 for the  
14 school fiscal year in which the aid is to be distributed; plus (4)  
15 the basic allowable growth rate pursuant to section 79-1025 for the  
16 school fiscal year immediately preceding the school fiscal year in  
17 which the aid is to be distributed; plus (5) any additional growth  
18 rate allowed by special action of school boards for the school  
19 fiscal year in which the aid is to be distributed as determined  
20 for the school fiscal year immediately preceding the school fiscal  
21 year when aid is to be distributed; plus (6) any additional growth  
22 rate allowed by special action of the school boards for the school  
23 fiscal year immediately preceding the school fiscal year when the  
24 aid is to be distributed.

25           Sec. 3. Section 79-1022, Revised Statutes Cumulative

1 Supplement, 2006, as affected by Referendum 2006, No. 422, is  
2 amended to read:

3           79-1022 (1) On or before ~~June 15, 2003,~~ February 15,  
4 2007, and on or before February 1 for each year thereafter,  
5 the department shall determine the amounts to be distributed to  
6 each local system and each district pursuant to the Tax Equity  
7 and Educational Opportunities Support Act and shall certify the  
8 amounts to the Director of Administrative Services, the Auditor  
9 of Public Accounts, each learning community, and each district.  
10 The amount to be distributed to each district that is not a  
11 member of a learning community from the amount certified for a  
12 local system shall be proportional based on the weighted formula  
13 students attributed to each district in the local system. The  
14 amount to be distributed to each district that is a member of a  
15 learning community from the amount certified for the local system  
16 shall be proportional based on the formula needs calculated for  
17 each district in the local system. On or before ~~June 15, 2003,~~  
18 February 15, 2007, and on or before February 1 for each year  
19 thereafter, the department shall report the necessary funding level  
20 to the Governor, the Appropriations Committee of the Legislature,  
21 and the Education Committee of the Legislature. Certified state  
22 aid amounts, including adjustments pursuant to section 79-1065.02,  
23 shall be shown as budgeted non-property-tax receipts and deducted  
24 prior to calculating the property tax request in the district's  
25 general fund budget statement as provided to the Auditor of Public

1 Accounts pursuant to section 79-1024.

2 (2) Except as provided in subsection (8) of section  
3 79-1016 and sections 79-1033 and 79-1065.02 the amounts certified  
4 pursuant to subsection (1) of this section shall be distributed in  
5 ten as nearly as possible equal payments on the last business day  
6 of each month beginning in September of each ensuing school fiscal  
7 year and ending in June of the following year, except that when a  
8 school district is to receive a monthly payment of less than one  
9 thousand dollars, such payment shall be one lump-sum payment on  
10 the last business day of December during the ensuing school fiscal  
11 year.

12 Sec. 4. Section 79-1026, Revised Statutes Cumulative  
13 Supplement, 2006, as affected by Referendum 2006, No. 422, is  
14 amended to read:

15 79-1026 For school fiscal years prior to 2008-09: On or  
16 before ~~June 15, 2003,~~ February 15, 2007, and on or before February  
17 1 for each year thereafter, the department shall determine and  
18 certify to each Class II, III, IV, V, or VI district an applicable  
19 allowable growth rate carried out at least four decimal places for  
20 each local system as follows:

21 (1) The department shall establish a target budget level  
22 range of general fund operating expenditure levels for each school  
23 fiscal year for each local system which shall begin at twenty  
24 percent less than the local system's formula need and end at the  
25 local system's formula need. The beginning point of the range shall

1 be assigned a number equal to the maximum allowable growth rate  
2 established in section 79-1025, and the end point of the range  
3 shall be assigned a number equal to the basic allowable growth rate  
4 as prescribed in such section such that the lower end of the range  
5 shall be assigned the maximum allowable growth rate and the higher  
6 end of the range shall be assigned the basic allowable growth rate;  
7 and

8 (2) For each school fiscal year, each local system's  
9 general fund operating expenditures shall be compared to its target  
10 budget level along the range described in subdivision (1) of  
11 this section to arrive at an applicable allowable growth rate as  
12 follows: If each local system's general fund operating expenditures  
13 fall below the lower end of the range, such applicable allowable  
14 growth rate shall be the maximum growth rate identified in section  
15 79-1025. If each local system's general fund operating expenditures  
16 are greater than the higher end of the range, the local system's  
17 allowable growth rate shall be the basic allowable growth rate  
18 identified in such section. If each local system's general fund  
19 operating expenditures fall between the lower end and the higher  
20 end of the range, the department shall use a linear interpolation  
21 calculation between the end points of the range to arrive at the  
22 applicable allowable growth rate for the local system.

23 Sec. 5. Section 79-1027, Revised Statutes Cumulative  
24 Supplement, 2006, as affected by Referendum 2006, No. 422, is  
25 amended to read:

1                   79-1027 No district shall adopt a budget, which includes  
 2 total requirements of depreciation funds, necessary employee  
 3 benefit fund cash reserves, and necessary general fund cash  
 4 reserves, exceeding the applicable allowable reserve percentages  
 5 of total general fund budget of expenditures as specified in the  
 6 schedule set forth in this section.

7	Average daily	Allowable
8	membership of	reserve
9	district	percentage
10	0 - 471	45
11	471.01 - 3,044	35
12	3,044.01 - 10,000	25
13	10,000.01 and over	20

14                   On or before ~~February 5, 2003,~~ February 15, 2007, and on  
 15 or before February 1 each year thereafter, the department shall  
 16 determine and certify each district's applicable allowable reserve  
 17 percentage.

18                   Each district with combined necessary general fund cash  
 19 reserves, total requirements of depreciation funds, and necessary  
 20 employee benefit fund cash reserves less than the applicable  
 21 allowable reserve percentage specified in this section may,  
 22 notwithstanding the district's applicable allowable growth rate,  
 23 increase its necessary general fund cash reserves such that the

1 total necessary general fund cash reserves, total requirements  
2 of depreciation funds, and necessary employee benefit fund  
3 cash reserves do not exceed such applicable allowable reserve  
4 percentage.

5           Sec. 6. Section 79-1031.01, Revised Statutes Cumulative  
6 Supplement, 2006, as affected by Referendum 2006, No. 422, is  
7 amended to read:

8           79-1031.01 The Appropriations Committee of the  
9 Legislature shall annually include the amount necessary to fund the  
10 state aid certified to school districts on or before ~~May 17, 2002,~~  
11 February 15, 2007, and on or before February 1 for each ensuing  
12 school year thereafter in its recommendations to the Legislature  
13 to carry out the requirements of the Tax Equity and Educational  
14 Opportunities Support Act.

15           Sec. 7. Original sections 79-1007.02 and 79-1007.10,  
16 Revised Statutes Cumulative Supplement, 2006, and sections 79-1022,  
17 79-1026, 79-1027, and 79-1031.01, Revised Statutes Cumulative  
18 Supplement, 2006, as affected by Referendum 2006, No. 422, are  
19 repealed.

20           Sec. 8. Since an emergency exists, this act takes effect  
21 when passed and approved according to law.