

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1057

Introduced by Howard, 9; Raikes, 25.

Read first time January 18, 2008

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 79-598, 79-1035,
2 and 79-1035.02, Reissue Revised Statutes of Nebraska, and
3 section 79-1018.01, Revised Statutes Supplement, 2007;
4 to adopt the Common Schools Facilities Equalization
5 Aid Act; to eliminate a prohibition on receiving the
6 state apportionment; to harmonize provisions; to provide
7 severability; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and
2 may be cited as the Common Schools Facilities Equalization Aid Act.

3 Sec. 2. (1) The Legislature finds and determines that:

4 (a) Since 1967, funding for the operation of the common
5 schools of the state has included the concept of state equalization
6 aid. Both the School Foundation and Equalization Act enacted in
7 1967 and the Tax Equity and Educational Opportunities Support Act
8 enacted in 1990 have included provisions that the revenue available
9 to fund the operations of school districts be equalized through
10 a determination of the financial needs of each school district,
11 a measurement of the financial resources available to fund those
12 needs, and a distribution of state aid to fill the gap, if any,
13 between each school district's financial needs and its financial
14 resources;

15 (b) Throughout the forty years that funding for the
16 operation of the common schools has included an equalization aid
17 component, the facilities in which the common schools are operated
18 have continued to be funded virtually entirely from local property
19 taxes. Due to the disparities in taxable valuation per student
20 between school districts, this reliance on property taxes for
21 common school facilities creates inequities for students in the
22 common schools and for taxpayers in school districts;

23 (c) When Nebraska became a state in 1867, the United
24 States Congress granted sections sixteen and thirty-six of each
25 township, or land selected in lieu thereof if sections sixteen and

1 thirty-six were already privately owned, to the State of Nebraska
2 for the support of the common schools. That land grant, together
3 with the proceeds of school lands which have been sold and other
4 miscellaneous sources, comprise the permanent school fund described
5 in section 79-1035.01. The earnings from the permanent school fund,
6 including the interest and investment income from the money portion
7 of the permanent school fund and the lease and lease-bonus income
8 of the land portion of the permanent school fund are included in
9 the temporary school fund described in section 79-1035.02;

10 (d) The Common Schools Facilities Equalization Aid Act
11 will use the temporary school fund to provide equalized state
12 assistance to school districts for debt service on certain common
13 schools facility bonds; and

14 (e) The obligation for the debt service on any school
15 district's facility bonds remains a general obligation of the
16 school district issuing the bonds. Funds provided pursuant to
17 the act, to the extent they are available, will provide school
18 districts with a source other than property taxes to meet their
19 obligations for such debt.

20 (2) The Legislature affirms that the public purpose of
21 the permanent school fund is to provide financial support for
22 the common schools, either through the leasing of school lands as
23 provided in sections 72-232 to 72-239 and other laws or through
24 the investment of the money assets of the permanent school fund as
25 provided in section 72-202 and other laws.

1 Sec. 3. For purposes of the Common Schools Facilities
2 Equalization Aid Act:

3 (1) Adjusted valuation has the meaning found in section
4 79-1016;

5 (2) Common schools facility annual debt service payments
6 means the amount required to be paid, in the ensuing fiscal year,
7 in principal and interest for common schools facility bonds;

8 (3) Common schools facility bonds include:

9 (a) Unlimited tax general obligation bonds authorized by
10 school district voters and issued or reissued pursuant to Chapter
11 10; and

12 (b) Limited tax general obligation bonds authorized by
13 boards of education and issued or reissued pursuant to section
14 79-10,110;

15 (4) Common schools facilities equalization aid means the
16 amount of assistance paid to a school district pursuant to the act;

17 (5) Department means the State Department of Education;

18 (6) Formula students has the definition found in section
19 79-1003; and

20 (7) Qualified early childhood education average daily
21 membership has the meaning found in section 79-1003.

22 Sec. 4. Beginning with school fiscal year 2008-09, not
23 later than December 15 of each year a school district may submit
24 to the department an application for common schools facilities
25 equalization aid. The application shall include the schedule of

1 common schools facility annual debt service payments for all school
2 fiscal years for which such debt is obligated, set forth separately
3 for bonds issued or reissued pursuant to Chapter 10 and for bonds
4 issued or reissued pursuant to section 79-10,110. The application
5 shall also include any other information the department requires
6 to administer the Common Schools Facilities Equalization Aid Act.
7 School districts failing to submit an application prior to such
8 date shall not be eligible for assistance pursuant to the act for
9 the ensuing school fiscal year.

10 Sec. 5. (1) The department shall calculate the adjusted
11 valuation per formula student for each school district in Nebraska
12 by dividing the school district's adjusted valuation by the number
13 of the school district's formula students.

14 (2) The department shall determine the highest school
15 district adjusted valuation per formula student in the state.

16 (3) The department shall calculate an assistance factor
17 between zero percent and fifty percent for each school district
18 which submits an application under section (4) of this act by:
19 (a) Dividing such school district's adjusted valuation per formula
20 student by the highest adjusted valuation per formula student
21 in the state; (b) subtracting the amount calculated pursuant to
22 subdivision (a) of this subsection from 1.0; (c) adding 0.10 to the
23 amount calculated pursuant to subdivision (b) of this subsection
24 if such school district has a qualified early childhood education
25 average daily membership greater than zero; and (d) multiplying the

1 amount calculated pursuant to subdivision (c) of this subsection,
2 but not more than 1.0, times fifty percent.

3 (4) The department shall multiply each applicant school
4 district's assistance factor calculated pursuant to subsection (3)
5 of this section by the school district's common schools facilities
6 annual debt service payments to arrive at each school district's
7 preliminary aid allocation.

8 (5) The department shall divide the amount of the
9 temporary school fund most recently certified by the State
10 Treasurer pursuant to section 79-1035 by the total of all applicant
11 school districts' preliminary aid allocations calculated pursuant
12 to subsection (4) of this section.

13 (6) (a) If the result obtained from the calculation
14 pursuant to subsection (5) of this section is greater than 1.0, the
15 aid prorate factor shall be equal to 1.0 and the amount by which
16 the temporary school fund exceeds the sum total of all applicant
17 school districts' preliminary aid allocation calculated pursuant to
18 subsection (4) of this section shall not be distributed and shall
19 remain in the temporary school fund; and

20 (b) If the result obtained from the calculation pursuant
21 to subsection (5) of this section is less than or equal to 1.0, the
22 result shall be the aid prorate factor.

23 (7) The aid prorate factor calculated pursuant to
24 subsection (6) of this section shall be multiplied by each
25 applicant school district's preliminary aid allocation calculated

1 pursuant to subsection (4) of this section to arrive at each
2 applicant school district's common schools facilities equalization
3 aid.

4 Sec. 6. The amounts of common schools facilities
5 equalization aid certified to individual school districts pursuant
6 to section 79-1035:

7 (1) Shall be certified separately for assistance for
8 bonds issued or reissued pursuant to Chapter 10 and for bonds
9 issued or reissued pursuant to section 79-10,110; and

10 (2) Shall be shown by such districts as budgeted
11 non-property-tax receipts and deducted prior to calculating the
12 property tax request in the budget statement for the ensuing school
13 fiscal year provided to the Auditor of Public Accounts pursuant to
14 Chapter 13 and section 79-1024 (a) in the school district's debt
15 retirement fund for bonds issued or reissued pursuant to Chapter
16 10 and (b) in the school district's qualified capital purpose
17 undertaking fund for bonds issued or reissued pursuant to section
18 79-10,110.

19 Sec. 7. Section 79-598, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 79-598 (1) The school board of any public school district
22 in this state, when authorized by a majority of the votes cast
23 at any annual or special meeting, shall (a) contract with the
24 board of any neighboring public school district or districts for
25 the instruction of all or any part of the pupils residing in the

1 first named district in the school or schools maintained by the
2 neighboring public school district or districts for a period of
3 time not to exceed three years and (b) make provision for the
4 transportation of such pupils to the school or schools of the
5 neighboring public school district or districts.

6 (2) The school board of any public school district may
7 also, when petitioned to do so by at least two-thirds of the
8 parents residing in the district having children of school age
9 who will attend school under the contract plan, (a) contract with
10 the board of any neighboring public school district or districts
11 for the instruction of all or any part of the pupils residing in
12 the first named district in the school or schools maintained by
13 the neighboring public school district or districts for a period
14 of time not to exceed three years and (b) make provision for the
15 transportation of such pupils to the school or schools of the
16 neighboring public school district or districts.

17 (3) The contract price for instruction referred to in
18 subsections (1) and (2) of this section shall be the cost per
19 pupil for the immediately preceding school year or the current
20 year, whichever appears more practical as determined by the board
21 of the district which accepts the pupils for instruction. The
22 cost per pupil shall be determined by dividing the sum of
23 the operational cost and debt service expense of the accepting
24 district, except retirement of debt principal, plus three percent
25 of the insurable or present value of the school plant and equipment

1 of the accepting district, by the average daily membership of
2 pupils in the accepting district. Payment of the contract price
3 shall be made in equal installments at the beginning of the first
4 and second semesters.

5 (4) All the contracts referred to in subsections (1) and
6 (2) of this section shall be in writing, and copies of all such
7 contracts shall be filed in the office of the superintendent of the
8 primary high school district on or before August 15 of each year.
9 School districts thus providing instruction for their children in
10 neighboring districts shall be considered as maintaining a school
11 as required by law. The teacher of the school providing the
12 instruction shall keep a separate record of the attendance of all
13 pupils from the first named district and make a separate report to
14 the secretary of that district. The board of every sending district
15 contracting under this section shall enter into contracts with
16 school districts of the choice of the parents of the children to
17 be educated under the contract plan. ~~Any school district failing to~~
18 ~~comply with this section shall not be paid any funds from the state~~
19 ~~apportionment of school funds while such violation continues.~~

20 (5) The State Committee for the Reorganization of School
21 Districts may dissolve any district (a) failing to comply with
22 this section, (b) in which the votes cast at an annual or
23 special election on the question of contracting with a neighboring
24 district are evenly divided, or (c) in which the governing body
25 of the district is evenly divided in its vote on the question of

1 contracting pursuant to subsection (2) of this section. The state
2 committee shall dissolve and attach to a neighboring district or
3 districts any school district which, for five consecutive years,
4 contracts for the instruction of its pupils, except that when such
5 dissolution will create extreme hardships on the pupils or the
6 district affected, the State Board of Education may, on application
7 by the school board of the district, waive the requirements of
8 this subsection. The dissolution of any school district pursuant to
9 this section shall be effected in the manner prescribed in section
10 79-498. School districts that have contracted for instruction
11 for two or more consecutive years shall, before reopening the
12 schoolhouse within the district, have an enrollment of at least
13 five pupils whose parents or legal guardians are legal voters of
14 the school district and shall apply to the state committee for
15 approval to reopen that schoolhouse for school use.

16 Sec. 8. Section 79-1018.01, Revised Statutes Supplement,
17 2007, is amended to read:

18 79-1018.01 Local system formula resources include other
19 actual receipts available for the funding of general fund operating
20 expenditures as determined by the department for the second school
21 fiscal year immediately preceding the school fiscal year in which
22 aid is to be paid, except that receipts from the Community
23 Improvements Cash Fund, receipts acquired pursuant to the Low-Level
24 Radioactive Waste Disposal Act, and, beginning with the calculation
25 of state aid to be distributed in school fiscal year 2004-05,

1 tuition receipts from converted contracts shall not be included.

2 Other actual receipts include:

3 (1) Public power district sales tax revenue;

4 (2) Fines and license fees;

5 (3) Tuition receipts from individuals, other districts,
6 or any other source except receipts derived from adult education,
7 tuition receipts from converted contracts, and receipts from
8 educational entities as defined in section 79-1201.01 for providing
9 distance education courses through the Distance Education Council
10 until July 1, 2008, and the Educational Service Unit Coordinating
11 Council on and after July 1, 2008, to such educational entities;

12 (4) Transportation receipts;

13 (5) Interest on investments;

14 (6) Other miscellaneous noncategorical local receipts,
15 not including receipts from private foundations, individuals,
16 associations, or charitable organizations;

17 (7) Special education receipts, excluding grant funds
18 received pursuant to section 9-812;

19 (8) Special education receipts and non-special education
20 receipts from the state for wards of the court and wards of the
21 state;

22 (9) All general fund receipts from the temporary school
23 fund received on or before August 31, 2007. Beginning with the
24 calculation of aid for school fiscal year 2002-03, ~~and each school~~
25 ~~fiscal year thereafter~~, receipts from the temporary school fund

1 shall only include receipts pursuant to section 79-1035 and the
2 receipt of funds pursuant to section 79-1036 for property leased
3 for a public purpose as set forth in subdivision (1) (a) of section
4 77-202;

5 (10) Motor vehicle tax receipts received on or after
6 January 1, 1998;

7 (11) Pro rata motor vehicle license fee receipts;

8 (12) Other miscellaneous state receipts excluding revenue
9 from the textbook loan program authorized by section 79-734;

10 (13) Impact aid entitlements for the school fiscal year
11 which have actually been received by the district to the extent
12 allowed by federal law;

13 (14) All other noncategorical federal receipts;

14 (15) All receipts pursuant to the enrollment option
15 program under sections 79-232 to 79-246;

16 (16) Receipts under the federal Medicare Catastrophic
17 Coverage Act of 1988, as such act existed on May 8, 2001, as
18 authorized pursuant to sections 43-2510 and 43-2511 but only to the
19 extent of the amount the local system would have otherwise received
20 pursuant to the Special Education Act; and

21 (17) Receipts for accelerated or differentiated
22 curriculum programs pursuant to sections 79-1106 to 79-1108.03.

23 Sec. 9. Section 79-1035, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 79-1035 (1) The State Treasurer shall, each year on or

1 before the third Monday in January, make a complete exhibit of
2 all money belonging to the permanent school fund and the temporary
3 school fund as returned to him or her from the several counties,
4 together with the amount derived from other sources, and deliver
5 such exhibit duly certified to the Commissioner of Education.

6 (2) On or before February 25 for school fiscal years
7 through school fiscal year 2007-08, the Commissioner of Education
8 shall:

9 (a) Make ~~make~~ the apportionment of the temporary school
10 fund ~~to each school district~~ as follows: From the whole amount
11 there shall be paid to those districts in which there are school
12 or saline lands, which lands are used for a public purpose, an
13 amount in lieu of tax money that would be raised if such lands were
14 taxable, to be fixed in the manner prescribed in section 79-1036;
15 and the remainder shall be apportioned to the districts according
16 to the pro rata enumeration of children who are five through
17 eighteen years of age in each district last returned from the
18 school district. The calculation of apportionment for each school
19 fiscal year shall include any corrections to the prior school
20 fiscal year's apportionment; and -

21 (b) Certify ~~(2) The Commissioner of Education shall~~
22 ~~certify~~ the amount of the apportionment of the temporary school
23 fund as provided in subdivision (a) of this subsection ~~(1) of this~~
24 ~~section~~ to the Director of Administrative Services. The Director of
25 Administrative Services shall draw a warrant on the State Treasurer

1 in favor of the various districts for the respective amounts so
2 certified by the Commissioner of Education.

3 (3) Beginning in school fiscal year 2008-09 and for each
4 school fiscal year thereafter, on or before the date specified in
5 subsection (1) of section 79-1022, the Commissioner of Education
6 shall (a) determine the amounts to be distributed to each school
7 district pursuant to section 5 of this act and (b) certify the
8 amount of the allocation of the temporary school fund pursuant
9 to the Common Schools Facilities Funding Equalization Act for
10 the ensuing school fiscal year to the Director of Administrative
11 Services and to each school district allocated funds from such act.
12 The Director of Administrative Services shall, on the first Tuesday
13 of September 2009 and of each September thereafter, draw a warrant
14 on the State Treasurer in favor of the various school districts for
15 the respective amounts certified by the Commissioner of Education
16 pursuant to this subsection.

17 Sec. 10. Section 79-1035.02, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 79-1035.02 The temporary school fund is the holding fund
20 to which the interest, dividends, and any other income from the
21 permanent school fund, the net income from the school lands,
22 and the money from all other sources required or provided by
23 law are credited as described in Article VII, section 9, of the
24 Constitution of Nebraska. The entire balance of the temporary
25 school fund, including all interest and any other income therefrom,

1 shall be exclusively used for the support and maintenance of the
2 common schools ~~in each public school district in the state~~ as the
3 Legislature provides, in accordance with Article VII, section 9,
4 of the Constitution of Nebraska, and shall be distributed ~~to each~~
5 ~~public school district~~ annually: (1) Through school fiscal year
6 2007-08 as provided in section 79-1035; (2) for school fiscal year
7 2008-09, no distribution; and (3) for school fiscal year 2009-10
8 and each school fiscal year thereafter, as provided in the Common
9 Schools Facilities Funding Equalization Act.

10 Sec. 11. If any section in this act or any part of any
11 section is declared invalid or unconstitutional, the declaration
12 shall not affect the validity or constitutionality of the remaining
13 portions.

14 Sec. 12. Original sections 79-598, 79-1035, and
15 79-1035.02, Reissue Revised Statutes of Nebraska, and section
16 79-1018.01, Revised Statutes Supplement, 2007, are repealed.