

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1151**

Introduced by Raikes, 25.

Read first time January 23, 2008

Committee: Education

A BILL

1 FOR AN ACT relating to education; to amend sections 79-1028,  
2 79-1336, and 79-1337, Revised Statutes Supplement, 2007;  
3 to provide for an exemption to applicable allowable  
4 growth rate for distance education and telecommunications  
5 expenditures under the Tax Equity and Educational  
6 Opportunities Support Act as prescribed; to change  
7 provisions relating to distance education reimbursements  
8 and incentives; and to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 79-1028, Revised Statutes Supplement,  
2 2007, is amended to read:

3           79-1028 (1) A Class II, III, IV, V, or VI school  
4 district may exceed its applicable allowable growth rate for (a)  
5 expenditures in support of a service which is the subject of  
6 an agreement or a modification of an existing agreement whether  
7 operated by one of the parties to the agreement or an independent  
8 joint entity or joint public agency, (b) expenditures to pay for  
9 repairs to infrastructure damaged by a natural disaster which is  
10 declared a disaster emergency pursuant to the Emergency Management  
11 Act, (c) expenditures to pay for judgments, except judgments  
12 or orders from the Commission of Industrial Relations, obtained  
13 against a school district which require or obligate a school  
14 district to pay such judgment, to the extent such judgment is not  
15 paid by liability insurance coverage of a school district, (d)  
16 expenditures to pay for sums agreed to be paid by a school district  
17 to certificated employees in exchange for a voluntary termination  
18 of employment, or (e) expenditures to pay for lease-purchase  
19 contracts approved on or after July 1, 1997, and before July  
20 1, 1998, to the extent the lease payments were not budgeted  
21 expenditures for fiscal year 1997-98.

22           (2) A Class II, III, IV, V, or VI district may exceed its  
23 applicable allowable growth rate by a specific dollar amount if the  
24 district projects an increase in formula students in the district  
25 over the current school year greater than twenty-five students

1 or greater than those listed in the schedule provided in this  
 2 subsection, whichever is less. Districts shall project increases  
 3 in formula students on forms prescribed by the department. The  
 4 department shall approve, deny, or modify the projected increases.

5	Average daily	Projected increase
6	membership of	of formula students
7	district	by percentage
8	0- 50	10
9	50.01 - 250	5
10	250.01 - 1,000	3
11	1,000.01 and over	1

12 The department shall compute the district's estimated  
 13 allowable budget per pupil using the budgeted general fund  
 14 expenditures found on the budget statement for the current school  
 15 year divided by the number of formula students in the current  
 16 school year and multiplied by the district's applicable allowable  
 17 growth rate. The resulting allowable budget per pupil shall be  
 18 multiplied by the projected formula students to arrive at the  
 19 estimated budget needs for the ensuing year. The department  
 20 shall allow the district to increase its general fund budget  
 21 of expenditures for the ensuing school year by the amount  
 22 necessary to fund the estimated budget needs of the district  
 23 as computed pursuant to this subsection. On or before July  
 24 1, the department shall make available to districts which have  
 25 been allowed additional growth pursuant to this subsection the

1 necessary document to recalculate the actual formula students of  
2 such district. Such document shall be filed with the department  
3 under subsection (1) of section 79-1024.

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

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

1 for that fiscal year.

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

6 (6) A Class II, III, IV, V, or VI district may exceed  
7 its applicable allowable growth rate by a specific dollar amount  
8 in any year for which the state aid calculation for the local  
9 system includes students in the qualified early childhood education  
10 fall membership of the district for the first time or for a year  
11 in which an early childhood education program of the district is  
12 receiving an expansion grant. The department shall compute the  
13 amount by which the district may exceed the district's applicable  
14 allowable growth rate by multiplying the cost grouping cost  
15 per student for the applicable cost grouping by the district's  
16 adjusted formula students attributed to early childhood education  
17 programs if students are included in the district's qualified  
18 early childhood education fall membership for the first time or by  
19 the district's adjusted formula students attributed to such early  
20 childhood education programs minus the district's adjusted formula  
21 students attributed to such early childhood education programs for  
22 the prior school fiscal year if a program is receiving an expansion  
23 grant in the school fiscal year for which the fall membership is  
24 measured. The department shall allow the district to increase its  
25 general fund expenditures by such amount for such school fiscal

1 year.

2 (7) For school fiscal year 2005-06, a Class II, III, IV,  
3 V, or VI district may exceed its applicable allowable growth rate  
4 by a specific dollar amount not to exceed seventy-four hundredths  
5 percent of the amount budgeted for employee salaries for such  
6 school fiscal year. For school fiscal year 2006-07, a Class II,  
7 III, IV, V, or VI district may exceed its applicable allowable  
8 growth rate by a specific dollar amount not to exceed fifty-nine  
9 hundredths percent of the amount budgeted for employee salaries for  
10 such school fiscal year.

11 (8) A Class II, III, IV, or V district that is a  
12 member of a learning community may exceed its applicable allowable  
13 growth rate for the first school fiscal year in which the school  
14 district will be a member of a learning community for the full  
15 school fiscal year by an amount equal to anticipated increases in  
16 transportation expenditures necessary to meet the requirements of  
17 subsection (2) of section 79-611 as approved by the department. The  
18 department shall approve, deny, or modify the amount allowed  
19 for anticipated increases in transportation expenditures. The  
20 department shall compute the actual increase in transportation  
21 expenditures necessary to meet the requirements of subsection (2)  
22 of section 79-611 for such school fiscal year and shall, if needed,  
23 modify the district's applicable allowable growth rate for the  
24 ensuing school fiscal year.

25 (9) For school fiscal year 2008-09, a Class II, III,

1 IV, or V district may exceed its applicable allowable growth  
2 rate by a specific dollar amount if the sum of the poverty  
3 allowance, elementary class size allowance, focus school and  
4 program allowance, and limited English proficiency allowance for  
5 the school district for school fiscal year 2008-09 exceeds the  
6 poverty weightings plus limited English proficiency weightings  
7 multiplied by the cost grouping cost per student for the school  
8 district for school fiscal year 2007-08. The department shall  
9 compute the amount by which the district may exceed the applicable  
10 allowable growth rate by subtracting the product of the sum of  
11 the poverty weightings and limited English proficiency weightings  
12 for school fiscal year 2007-08 multiplied by the average formula  
13 cost per student in the school district's cost grouping for school  
14 fiscal year 2007-08 from the sum of the school fiscal year 2008-09  
15 poverty allowance, elementary class size allowance, focus school  
16 and program allowance, and limited English proficiency allowance  
17 for the school district. The department shall allow the district to  
18 increase its general fund expenditures by such amount for school  
19 fiscal year 2008-09.

20 (10) For school fiscal year 2009-10 and each school  
21 fiscal year thereafter, a Class II, III, IV, or V district may  
22 exceed its applicable allowable growth rate by a specific dollar  
23 amount if the sum of the poverty allowance, elementary class size  
24 allowance, focus school and program allowance, and limited English  
25 proficiency allowance for the school district has grown at a rate

1 higher than the applicable allowable growth rate of the district.  
2 The department shall compute the amount by which the district  
3 may exceed the applicable allowable growth rate by subtracting  
4 the product of the sum of the poverty allowance, elementary class  
5 size allowance, focus school and program allowance, and limited  
6 English proficiency allowance for the immediately preceding school  
7 fiscal year multiplied by the sum of one plus the applicable  
8 allowable growth rate to be exceeded from the sum of the poverty  
9 allowance, elementary class size allowance, focus school and  
10 program allowance, and limited English proficiency allowance for  
11 the district for the school fiscal year for which the applicable  
12 allowable growth rate would be exceeded. The department shall allow  
13 the district to increase its general fund expenditures by such  
14 amount for the applicable school fiscal year.

15 (11) A Class II, III, IV, or V school district may exceed  
16 its applicable allowable growth rate by a specific dollar amount  
17 not to exceed the amount received during such school fiscal year  
18 from educational entities as defined in section 79-1201.01 for  
19 providing distance education courses through the Distance Education  
20 Council until July 1, 2008, and the Educational Service Unit  
21 Coordinating Council on and after July 1, 2008, to such educational  
22 entities.

23 (12) A Class II, III, IV, or V school district may exceed  
24 its applicable allowable growth rate for school fiscal year 2007-08  
25 by a specific dollar amount equal to the amount paid in school

1 fiscal year 2006-07 to any distance education consortium in which  
2 the school district was participating pursuant to an interlocal  
3 agreement.

4 (13) A Class II, III, IV, or V school district may exceed  
5 its applicable allowable growth rate for either (a) the first  
6 school fiscal year the district will be participating in Network  
7 Nebraska for the full school fiscal year or (b) school fiscal year  
8 2008-09, if the school district participated in Network Nebraska  
9 for all of school fiscal year 2007-08, by a specific dollar  
10 amount equal to the estimated expenditures, to be made in the  
11 school fiscal year in which the district may exceed its applicable  
12 allowable growth rate, for (a) telecommunication services, (b)  
13 access to data transmission networks that transmit data to and  
14 from the school district, and (c) the transmission of data on such  
15 networks as such expenditures are defined by the department for  
16 purposes of the distance education and telecommunications allowance  
17 minus the dollar amount of such expenditures for the school fiscal  
18 year immediately preceding the first full school fiscal year the  
19 district participates in Network Nebraska. Districts shall estimate  
20 expenditures on forms prescribed by the department. The department  
21 shall approve, deny, or modify the estimated expenditures.

22 Sec. 2. Section 79-1336, Revised Statutes Supplement,  
23 2007, is amended to read:

24 79-1336 (1) For fiscal years 2007-08 through 2013-14,  
25 the State Department of Education shall provide distance education

1 equipment reimbursement to school districts and educational service  
2 units from the Education Innovation Fund as provided in this  
3 section. Such reimbursements shall be for hardware or software  
4 purchased after July 14, 2006, for use in distance education  
5 and shall be limited to a total through fiscal year 2013-14 of  
6 twenty thousand dollars multiplied by the number of high school  
7 buildings for each school district and twenty thousand dollars  
8 for each educational service unit office with a distance education  
9 classroom, except that no educational service unit shall count  
10 more than one office with a distance education classroom for each  
11 four thousand square miles within the boundaries of the educational  
12 service unit. If a school district has one or more former high  
13 school buildings that are no longer being used as high school  
14 buildings due to a school district merger and such buildings have  
15 distance education classrooms at the time of application, such  
16 buildings shall be deemed high school buildings for the purposes  
17 of this subsection. The reimbursements may include installation  
18 costs for such hardware or software. Applications shall be accepted  
19 by the department beginning in the first year that the school  
20 district or the educational service unit accesses Network Nebraska  
21 and ending June 30, 2013. Applications shall be submitted on or  
22 before July 1 of each year on a form specified by the department  
23 and shall include:

24 (a) A description of the hardware or software purchased  
25 and how the hardware or software will be used for distance

1 education;

2 (b) Copies of receipts for the purchases to be  
3 reimbursed; and

4 (c) For school districts, a commitment to either send  
5 or receive two-way interactive video distance education courses  
6 through the Distance Education Council until July 1, 2008, and the  
7 Educational Service Unit Coordinating Council on and after July  
8 1, 2008, each semester, or the equivalent of two semester courses  
9 each year, for four consecutive years and to apply for distance  
10 education incentives pursuant to section 79-1337 or to provide  
11 any other evidence required by the department to show that the  
12 commitment was met.

13 (2) On or before August 1 of each year, the department  
14 shall certify the reimbursements to be paid to each school district  
15 or educational service unit on or before September 1 of each year.

16 (3) The department shall use the applications for  
17 distance education incentives submitted pursuant to section 79-1337  
18 and any other information requested by the department pursuant to  
19 rules and regulations of the department to verify that each school  
20 district that received a reimbursement completes the commitment  
21 to either send or receive two-way interactive video distance  
22 education courses through the council for four years. Any school  
23 district failing to complete such commitment shall repay the  
24 Education Innovation Fund for the amount of any reimbursements  
25 received pursuant to this section. On or before September 1 of each

1 year, the department shall notify any school district failing to  
2 complete the commitment for the prior school year that repayment  
3 of the reimbursement is required and the amount of such repayment.  
4 Repayments shall be due on or before the immediately following  
5 December 31. Late repayments shall accrue interest at the rate  
6 prescribed in section 45-104.02 from the date of the initial  
7 reimbursement.

8 (4) On or before October 1 of each year, a school  
9 district or educational service unit may appeal the denial of  
10 reimbursements or a school district may appeal the requirement to  
11 repay reimbursements to the State Board of Education. The board  
12 shall allow a representative of the school district or educational  
13 service unit an opportunity to present information concerning the  
14 appeal to the board at the November board meeting. If the board  
15 finds that the department denied the reimbursement in error, the  
16 department shall pay the district or educational service unit from  
17 the Education Innovation Fund as soon as practical the amount which  
18 was denied in error. If the board finds that the department erred  
19 in notifying a school district that a reimbursement is required to  
20 be repaid, such notification shall be void.

21 (5) The State Board of Education shall adopt and  
22 promulgate rules and regulations to carry out this section.

23 Sec. 3. Section 79-1337, Revised Statutes Supplement,  
24 2007, is amended to read:

25 79-1337 (1) For fiscal years 2007-08 through 2015-16,

1 the State Department of Education shall provide distance education  
2 incentives from the Education Innovation Fund to school districts  
3 and educational service units for qualified distance education  
4 courses and coordinated through the Distance Education Council  
5 until July 1, 2008, and the Educational Service Unit Coordinating  
6 Council on and after July 1, 2008, as provided in this section.

7 (2) School districts and educational service units shall  
8 apply for incentives annually to the department on or before August  
9 1 on a form specified by the department. The application shall:

10 (a) For school districts, specify (i) the qualified  
11 distance education courses which were received by students in the  
12 membership of the district in the then-current school fiscal year  
13 and which were not taught by a teacher employed by the school  
14 district and (ii) for each such course (A) the number of students  
15 in the membership of the district who received the course, (B)  
16 the educational entity employing the teacher, and (C) whether the  
17 course was a two-way interactive video distance education course;  
18 and

19 (b) For school districts and educational service units,  
20 specify (i) the qualified distance education courses which were  
21 received by students in the membership of another educational  
22 entity in the then-current school fiscal year and which were  
23 taught by a teacher employed by the school district or educational  
24 service unit, (ii) for each such course for school districts,  
25 the number of students in the membership of the district who

1 received the course, and (iii) for each such course (A) the other  
2 educational entities in which students received the course and how  
3 many students received the course at such educational entities,  
4 (B) any school districts in the sparse cost grouping or the very  
5 sparse cost grouping as described in section 79-1007.02 that had  
6 at least one student in the membership who received the course,  
7 and (C) whether the course was a two-way interactive video distance  
8 education course.

9 (3) On or before September 1 of each year, the department  
10 shall certify the incentives ~~to be paid to~~ for each school district  
11 and educational service unit which shall be paid on or before  
12 October 1 of ~~each~~ such year. The incentives for each district shall  
13 be calculated as follows:

14 (a) Each district shall receive distance education units  
15 for each qualified distance education course as follows:

16 (i) One distance education unit for each qualified  
17 distance education course received as reported pursuant to  
18 subdivision (2)(a) of this section if the course was a two-way  
19 interactive video distance education course;

20 (ii) One distance education unit for each qualified  
21 distance education course sent as reported pursuant to subdivision  
22 (2)(b) of this section if the course was not received by at least  
23 one student who was in the membership of another school district  
24 which was in the sparse cost grouping or the very sparse cost  
25 grouping;

1           (iii) One distance education unit for each qualified  
2 distance education course sent as reported pursuant to subdivision  
3 (2)(b) of this section if the course was received by at least  
4 one student who was in the membership of another school district  
5 which was in the sparse cost grouping or the very sparse cost  
6 grouping, but the course was not a two-way interactive video  
7 distance education course; and

8           (iv) Two distance education units for each qualified  
9 distance education course sent as reported pursuant to subdivision  
10 (2)(b) of this section if the course was received by at least one  
11 student who was in the membership of another school district which  
12 was in the sparse cost grouping or the very sparse cost grouping  
13 and the course was a two-way interactive video distance education  
14 course;

15           (b) The difference of the amount available for  
16 distribution in the Education Innovation Fund on the August 1 when  
17 the applications were due minus any amount to be paid to school  
18 districts pursuant to section 79-1336 shall be divided by the  
19 number of distance education units to determine the incentive per  
20 distance education unit, except that the incentive per distance  
21 education unit shall not equal an amount greater than one thousand  
22 dollars; and

23           (c) The incentives for each school district shall equal  
24 the number of distance education units calculated for the school  
25 district multiplied by the incentive per distance education unit.

1           (4) If there are additional funds available for  
2 distribution after equipment reimbursements pursuant to section  
3 79-1336 and incentives calculated pursuant to subsections (1)  
4 through (3) of this section, school districts and educational  
5 service units may qualify for additional incentives for elementary  
6 distance education courses. Such incentives shall be calculated  
7 for sending and receiving school districts and educational service  
8 units as follows:

9           (a) The per-hour incentives shall equal the funds  
10 available for distribution after equipment reimbursements pursuant  
11 to section 79-1336 and incentives calculated pursuant to  
12 subsections (1) through (3) of this section divided by the sum of  
13 the hours of elementary distance education courses sent or received  
14 for each school district and educational service unit submitting  
15 an application, except that the per-hour incentives shall not be  
16 greater than ten dollars; and

17           (b) The elementary distance education incentives for  
18 each school district and educational service unit shall equal the  
19 per-hour incentive multiplied by the hours of elementary distance  
20 education courses sent or received by the school district or  
21 educational service unit.

22           (5) The department may verify any or all application  
23 information using annual curriculum reports and may request such  
24 verification from the council.

25           (6) On or before October 1 of each year, a school

1 district or educational service unit may appeal the denial of  
2 incentives for any course by the department to the State Board of  
3 Education. The board shall allow a representative of the school  
4 district or educational service unit an opportunity to present  
5 information concerning the appeal to the board at the November  
6 board meeting. If the board finds that the course meets the  
7 requirements of this section, the department shall pay the district  
8 from the Education Innovation Fund as soon as practical in an  
9 amount for which the district or educational service unit should  
10 have qualified based on the incentive per distance education unit  
11 used in the original certification of incentives pursuant to this  
12 section.

13 (7) The State Board of Education shall adopt and  
14 promulgate rules and regulations to carry out this section.

15 Sec. 4. Original sections 79-1028, 79-1336, and 79-1337,  
16 Revised Statutes Supplement, 2007, are repealed.