

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 711

FINAL READING

(SECOND)

Introduced by Dierks, 40.

Read first time January 06, 2010

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-4,108,
2 Reissue Revised Statutes of Nebraska, sections 79-1022,
3 79-1026.01, 79-1027, and 79-1031.01, Revised Statutes
4 Supplement, 2009, and section 79-1023, Revised Statutes
5 Supplement, 2009, as amended by section 11, Legislative
6 Bill 5, One Hundred First Legislature, First Special
7 Session, 2009; to change provisions relating to
8 interlocal agreements for unified school systems; to
9 change dates relating to certification of state aid under
10 the Tax Equity and Educational Opportunities Support
11 Act; to repeal the original sections; and to declare an

1 emergency.

2 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 or
4 III school districts participating in an interlocal agreement
5 under the Interlocal Cooperation Act with approval from the
6 State 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:

10 (a) For ~~for~~ a minimum term of three school years;

11 (b) That ~~The agreement shall provide that~~ all property
12 tax and state aid resources shall be shared by the unified system;

13 (c) That ~~and that~~ a board composed of school board
14 members, with at least one school board member from each district,
15 shall determine the general fund levy, within the limitations
16 placed on school districts and multiple-district school systems
17 pursuant to section 77-3442, to be applied in all participating
18 districts and shall determine the distribution of property tax
19 and state aid resources within the unified system. For purposes
20 of section 77-3442, the multiple-district school system shall
21 include all of the Class I, II, and III districts participating
22 in the unified system and the Class I districts or portions
23 thereof affiliated with any of the participating Class II and III
24 districts;

25 (d) That ~~The interlocal agreement shall also provide~~

1 ~~that~~ certificated staff will be employees of the unified system.
2 For any certificated staff employed by the unified system, tenure
3 and seniority as of the effective date of the interlocal agreement
4 shall be transferred to the unified system and tenure and seniority
5 provisions shall continue in the unified system except as provided
6 in sections 79-850 to 79-858. If a district withdraws from the
7 unified system or if the interlocal agreement expires and is not
8 renewed, certificated staff employed by a participating district
9 immediately prior to the unification shall be reemployed by the
10 original district and tenure and seniority as of the effective
11 date of the withdrawal or expiration shall be transferred to the
12 original district. The certificated staff hired by the unified
13 system but not employed by a participating district immediately
14 prior to the unification shall be subject to the reduction-in-force
15 policy of the unified system;

16 (e) That the ~~- The interlocal agreement shall also~~
17 ~~require~~ participating districts ~~to~~ shall pay obligations of the
18 unified system pursuant to sections 79-850 to 79-858 on a pro rata
19 basis based on the adjusted valuations if a district withdraws from
20 the unified system or if the interlocal agreement expires and is
21 not renewed; ~~and-~~

22 (f) The permissible method or methods for accomplishing
23 the partial or complete termination of the interlocal agreement
24 and for disposing of assets and liabilities upon such partial or
25 complete termination.

1 Additional provisions in the interlocal agreement shall
2 be determined by the participating districts and shall encourage
3 cooperation within the unified system.

4 (2) Application for unification shall be made to the
5 state committee. The application shall contain a copy of the
6 interlocal agreement signed by the president of each participating
7 school board. The state committee shall approve or disapprove
8 applications for unification within forty days after receipt
9 of the application. If the interlocal agreement complies with
10 subsection (1) of this section and all school boards of the
11 participating districts have approved the interlocal agreement,
12 the state committee shall approve the application. Unification
13 agreements shall be effective on June 1 following approval from
14 the state committee for status as a unified system or on the date
15 specified in the interlocal agreement, except that the date shall
16 be on or after June 1 and on or before September 1 for a specified
17 year. The board established in the interlocal agreement may begin
18 meeting any time after the application has been approved by the
19 state committee.

20 (3) Upon granting the application for unification, the
21 State Department of Education shall recognize the unified system
22 as a single Class II or III district for state aid, budgeting,
23 accreditation, enrollment of students, state programs, and
24 reporting, except that the department shall require such reporting
25 on an individual district basis as necessary to calculate formula

1 need pursuant to the Tax Equity and Educational Opportunities
2 Support Act separately for each participating district beginning
3 with the calculation of state aid for school fiscal year 2009-10.
4 Except as otherwise required by the department, the unified system
5 shall submit a single report document for each of the reports
6 required of school districts pursuant to Chapter 79 and shall
7 submit a single budget document pursuant to the Nebraska Budget Act
8 and sections 13-518 to 13-522. The class of district shall be the
9 same as the majority of participating districts, excluding Class
10 I districts. If there are an equal number of Class II and Class
11 III districts in the unified system, the unified system shall be
12 recognized by the department as a Class III district.

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

17 ~~(5) The withdrawal of a participating school district~~
18 ~~from a unified system or dissolution of a unified system shall~~
19 ~~occur only if each participating school district in such unified~~
20 ~~system either will be merged with at least one other school~~
21 ~~district or will continue participation in such unified system~~
22 ~~with at least one other participating school district following~~
23 ~~such withdrawal or dissolution. The withdrawal of a participating~~
24 ~~school district from a unified system or dissolution of a unified~~
25 ~~system shall be accomplished and the rights and liabilities of~~

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

1 of any decree of declaratory judgment entered pursuant to this
2 section.

3 ~~(6) After April 3, 2008, the State Committee for the~~
4 ~~Reorganization of School Districts shall not approve or order into~~
5 ~~effect any new unified system under this section. The committee~~
6 ~~may approve and order into effect the addition of school districts~~
7 ~~to a unified system or the continuation of a unified system if~~
8 ~~the continuing unified system will consist of at least two school~~
9 ~~districts which are continuing participation in the unified system.~~

10 Sec. 2. Section 79-1022, Revised Statutes Supplement,
11 2009, is amended to read:

12 79-1022 (1) On ~~or before June 1, 2009,~~ on or before March
13 ~~1, 10,~~ 2010, and on or before February 1 of each year thereafter,
14 the department shall determine the amounts to be distributed to
15 each local system and each district pursuant to the Tax Equity
16 and Educational Opportunities Support Act and shall certify the
17 amounts to the Director of Administrative Services, the Auditor of
18 Public Accounts, each learning community, and each district. The
19 amount to be distributed to each district that is not a member
20 of a learning community from the amount certified for a local
21 system shall be proportional based on: (a) For school fiscal years
22 prior to school fiscal year 2008-09, the weighted formula students
23 attributed to each district in the local system; and (b) for school
24 fiscal year 2008-09 and each school fiscal year thereafter, the
25 formula students attributed to each district in the local system.

1 The amount to be distributed to each district that is a member of
2 a learning community from the amount certified for the local system
3 shall be proportional based on the formula needs calculated for
4 each district in the local system. On ~~or before June 17, 2009~~ or
5 before March ~~17~~ 10, 2010, and on or before February 1 of each year
6 thereafter, the department shall report the necessary funding level
7 to the Governor, the Appropriations Committee of the Legislature,
8 and the Education Committee of the Legislature. Certified state
9 aid amounts, including adjustments pursuant to section 79-1065.02,
10 shall be shown as budgeted non-property-tax receipts and deducted
11 prior to calculating the property tax request in the district's
12 general fund budget statement as provided to the Auditor of Public
13 Accounts pursuant to section 79-1024.

14 (2) Except as provided in subsection (8) of section
15 79-1016 and sections 79-1033 and 79-1065.02, the amounts certified
16 pursuant to subsection (1) of this section shall be distributed in
17 ten as nearly as possible equal payments on the last business day
18 of each month beginning in September of each ensuing school fiscal
19 year and ending in June of the following year, except that when a
20 school district is to receive a monthly payment of less than one
21 thousand dollars, such payment shall be one lump-sum payment on
22 the last business day of December during the ensuing school fiscal
23 year.

24 Sec. 3. Section 79-1023, Revised Statutes Supplement,
25 2009, as amended by section 11, Legislative Bill 5, One Hundred

1 First Legislature, First Special Session, 2009, is amended to read:

2 79-1023 (1) On ~~or before June 17, 2009,~~ or before March
3 ~~17, 2010,~~ 2010, and on or before February 1 of each year thereafter,
4 the department shall determine and certify to each school district
5 the maximum general fund budget of expenditures minus the special
6 education budget of expenditures for the immediately following
7 school fiscal year.

8 (2) Except as provided in section 79-1028.01, no
9 school district shall have a general fund budget of expenditures
10 minus special grant funds and the special education budget of
11 expenditures more than the greater of (a) the product of the
12 difference of the general fund budget of expenditures minus special
13 grant funds and the special education budget of expenditures
14 for the immediately preceding school fiscal year multiplied by
15 (i) except as otherwise provided in subdivision (a)(ii) of this
16 subsection, the sum of one plus the local system's applicable
17 allowable growth rate or (ii) for school fiscal year 2010-11, the
18 sum of one plus seventy-five hundredths of one percent plus the
19 local system's applicable allowable growth rate or (b)(i) except as
20 otherwise provided in subdivision (b)(ii) of this subsection, the
21 difference of one hundred twenty percent of formula need for such
22 school fiscal year minus the product of the sum of one plus the
23 basic allowable growth rate for such school fiscal year multiplied
24 by the special education budget of expenditures as filed on the
25 school district budget statement on or before September 20 for

1 the immediately preceding school fiscal year or (ii) for school
2 fiscal years 2009-10 and 2010-11, the difference of one hundred
3 sixteen and fifteen-hundredths percent of formula need for such
4 school fiscal year minus the product of the sum of one plus the
5 basic allowable growth rate for such school fiscal year multiplied
6 by the special education budget of expenditures as filed on the
7 school district budget statement on or before September 20 for the
8 immediately preceding school fiscal year.

9 Sec. 4. Section 79-1026.01, Revised Statutes Supplement,
10 2009, is amended to read:

11 79-1026.01 For school fiscal year 2008-09 and each school
12 fiscal year thereafter, ~~on or before June 1, 2009,~~ on or before
13 March 1, 10, 2010, and on or before February 1 of each year
14 thereafter, the department shall determine and certify to each
15 Class II, III, IV, or V district an applicable allowable growth
16 rate carried out at least four decimal places as follows:

17 (1) The department shall establish a target budget level
18 range of general fund operating expenditure levels for each school
19 fiscal year for each school district which shall begin at twenty
20 percent less than the school district's formula need and end at the
21 school district's formula need. The beginning point of the range
22 shall be assigned a number equal to the maximum allowable growth
23 rate established in section 79-1025, and the end point of the range
24 shall be assigned a number equal to the basic allowable growth rate
25 as prescribed in such section such that the lower end of the range

1 shall be assigned the maximum allowable growth rate and the higher
2 end of the range shall be assigned the basic allowable growth rate;
3 and

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

20 Sec. 5. Section 79-1027, Revised Statutes Supplement,
21 2009, is amended to read:

22 79-1027 No district shall adopt a budget, which includes
23 total requirements of depreciation funds, necessary employee
24 benefit fund cash reserves, and necessary general fund cash
25 reserves, exceeding the applicable allowable reserve percentages

1 of total general fund budget of expenditures as specified in the
2 schedule set forth in this section.

3	Average daily	Allowable
4	membership of	reserve
5	district	percentage
6	0 - 471	45
7	471.01 - 3,044	35
8	3,044.01 - 10,000	25
9	10,000.01 and over	20

10 On ~~or before June 1, 2009,~~ ~~or~~ or before March 1, 10,
11 2010, and on or before February 1 each year thereafter, the
12 department shall determine and certify each district's applicable
13 allowable reserve percentage.

14 Each district with combined necessary general fund cash
15 reserves, total requirements of depreciation funds, and necessary
16 employee benefit fund cash reserves less than the applicable
17 allowable reserve percentage specified in this section may,
18 notwithstanding the district's applicable allowable growth rate,
19 increase its necessary general fund cash reserves such that the
20 total necessary general fund cash reserves, total requirements
21 of depreciation funds, and necessary employee benefit fund
22 cash reserves do not exceed such applicable allowable reserve
23 percentage.

24 Sec. 6. Section 79-1031.01, Revised Statutes Supplement,
25 2009, is amended to read:

1 79-1031.01 The Appropriations Committee of the
2 Legislature shall annually include the amount necessary to fund the
3 state aid that will be certified to school districts ~~on or before~~
4 ~~June 1, 2009~~ on or before March ~~1,~~ 10, 2010, and on or before
5 February 1 for each school year thereafter in its recommendations
6 to the Legislature to carry out the requirements of the Tax Equity
7 and Educational Opportunities Support Act.

8 Sec. 7. Original section 79-4,108, Reissue Revised
9 Statutes of Nebraska, sections 79-1022, 79-1026.01, 79-1027, and
10 79-1031.01, Revised Statutes Supplement, 2009, and section 79-1023,
11 Revised Statutes Supplement, 2009, as amended by section 11,
12 Legislative Bill 5, One Hundred First Legislature, First Special
13 Session, 2009, are repealed.

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