

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 741

Introduced by Avery, 28; Louden, 49; Pirsch, 4.

Read first time January 06, 2010

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities
2 Support Act; to amend section 79-1003, Revised Statutes
3 Supplement, 2009, as amended by section 3, Legislative
4 Bill 5, One Hundred First Legislature, First Special
5 Session, 2009; to exclude lobbying expenses from the
6 definition of general fund operating expenditures; to
7 repeal the original section; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Revised Statutes Supplement,
2 2009, as amended by section 3, Legislative Bill 5, One Hundred
3 First Legislature, First Special Session, 2009, is amended to read:

4 79-1003 For purposes of the Tax Equity and Educational
5 Opportunities Support Act:

6 (1) Adjusted general fund operating expenditures means
7 (a) for school fiscal years before school fiscal year 2007-08,
8 general fund operating expenditures as calculated pursuant to
9 subdivision (21) of this section minus the transportation allowance
10 and minus the special receipts allowance, (b) for school fiscal
11 year 2007-08, general fund operating expenditures as calculated
12 pursuant to subdivision (21) of this section minus the sum of
13 the transportation, special receipts, and distance education
14 and telecommunications allowances, (c) for school fiscal year
15 2008-09, the difference of the product of the general fund
16 operating expenditures as calculated pursuant to subdivision (21)
17 of this section multiplied by the cost growth factor calculated
18 pursuant to section 79-1007.10 minus the transportation allowance,
19 special receipts allowance, poverty allowance, limited English
20 proficiency allowance, distance education and telecommunications
21 allowance, elementary site allowance, elementary class size
22 allowance, summer school allowance, and focus school and program
23 allowance, (d) for school fiscal year 2009-10, the difference
24 of the product of the general fund operating expenditures
25 as calculated pursuant to subdivision (21) of this section

1 multiplied by the cost growth factor calculated pursuant to
2 section 79-1007.10 minus the transportation allowance, special
3 receipts allowance, poverty allowance, limited English proficiency
4 allowance, distance education and telecommunications allowance,
5 elementary site allowance, elementary class size allowance, summer
6 school allowance, instructional time allowance, and focus school
7 and program allowance, (e) for school fiscal years 2010-11 through
8 2012-13, the difference of the product of the general fund
9 operating expenditures as calculated pursuant to subdivision (21)
10 of this section multiplied by the cost growth factor calculated
11 pursuant to section 79-1007.10 minus the transportation allowance,
12 special receipts allowance, poverty allowance, limited English
13 proficiency allowance, distance education and telecommunications
14 allowance, elementary site allowance, elementary class size
15 allowance, summer school allowance, instructional time allowance,
16 teacher education allowance, and focus school and program
17 allowance, and (f) for school fiscal year 2013-14 and each
18 school fiscal year thereafter, the difference of the product of
19 the general fund operating expenditures as calculated pursuant
20 to subdivision (21) of this section multiplied by the cost
21 growth factor calculated pursuant to section 79-1007.10 minus
22 the transportation allowance, special receipts allowance, poverty
23 allowance, limited English proficiency allowance, distance
24 education and telecommunications allowance, elementary site
25 allowance, summer school allowance, instructional time allowance,

1 teacher education allowance, and focus school and program
2 allowance;

3 (2) Adjusted valuation means the assessed valuation of
4 taxable property of each local system in the state, adjusted
5 pursuant to the adjustment factors described in section 79-1016.
6 Adjusted valuation means the adjusted valuation for the property
7 tax year ending during the school fiscal year immediately preceding
8 the school fiscal year in which the aid based upon that value is
9 to be paid. For purposes of determining the local effort rate yield
10 pursuant to section 79-1015.01, adjusted valuation does not include
11 the value of any property which a court, by a final judgment from
12 which no appeal is taken, has declared to be nontaxable or exempt
13 from taxation;

14 (3) Allocated income tax funds means the amount of
15 assistance paid to a local system pursuant to section 79-1005.01 or
16 79-1005.02 as adjusted by the minimum levy adjustment pursuant to
17 section 79-1008.02;

18 (4) Average daily attendance of a student who resides on
19 Indian land means average daily attendance of a student who resides
20 on Indian land from the most recent data available on November 1
21 preceding the school fiscal year in which aid is to be paid;

22 (5) Average daily membership means the average daily
23 membership for grades kindergarten through twelve attributable to
24 the local system, as provided in each district's annual statistical
25 summary, and includes the proportionate share of students enrolled

1 in a public school instructional program on less than a full-time
2 basis;

3 (6) Base fiscal year means the first school fiscal year
4 following the school fiscal year in which the reorganization or
5 unification occurred;

6 (7) Board means the school board of each school district;

7 (8) Categorical funds means funds limited to a specific
8 purpose by federal or state law, including, but not limited to,
9 Title I funds, Title VI funds, federal vocational education funds,
10 federal school lunch funds, Indian education funds, Head Start
11 funds, and funds from the Education Innovation Fund;

12 (9) Consolidate means to voluntarily reduce the number of
13 school districts providing education to a grade group and does not
14 include dissolution pursuant to section 79-498;

15 (10) Department means the State Department of Education;

16 (11) District means any Class I, II, III, IV, V, or VI
17 school district;

18 (12) Ensuing school fiscal year means the school fiscal
19 year following the current school fiscal year;

20 (13) Equalization aid means the amount of assistance
21 calculated to be paid to a local system pursuant to sections
22 79-1007.11 to 79-1007.23, 79-1008.01 to 79-1022, and 79-1022.02 and
23 section 8 of this act;

24 (14) Fall membership means the total membership in
25 kindergarten through grade twelve attributable to the local system

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1 as reported on the fall school district membership reports for each
2 district pursuant to section 79-528;

5 (16) Formula students means:

1 daily membership to fall membership for the second school fiscal
2 year immediately preceding the school fiscal year in which the aid
3 is to be paid and the prior two school fiscal years plus sixty
4 percent of the qualified early childhood education fall membership
5 plus tuitioned students from the school fiscal year immediately
6 preceding the school fiscal year in which aid is to be paid minus
7 the product of the number of students enrolled in kindergarten that
8 is not full-day kindergarten from the fall membership multiplied by
9 0.5 and (ii) for final calculation of state aid pursuant to section
10 79-1065, the sum of average daily membership plus sixty percent of
11 the qualified early childhood education average daily membership
12 plus tuitioned students minus the product of the number of students
13 enrolled in kindergarten that is not full-day kindergarten from the
14 average daily membership multiplied by 0.5 from the school fiscal
15 year immediately preceding the school fiscal year in which aid was
16 paid;

17 (17) Free lunch and free milk student means a student
18 who qualified for free lunches or free milk from the most recent
19 data available on November 1 of the school fiscal year immediately
20 preceding the school fiscal year in which aid is to be paid;

21 (18) Full-day kindergarten means kindergarten offered by
22 a district for at least one thousand thirty-two instructional
23 hours;

24 (19) General fund budget of expenditures means the total
25 budget of disbursements and transfers for general fund purposes as

1 certified in the budget statement adopted pursuant to the Nebraska
2 Budget Act, except that for purposes of the limitation imposed in
3 section 79-1023 and the calculation pursuant to subdivision (2) of
4 section 79-1027.01, the general fund budget of expenditures does
5 not include any special grant funds, exclusive of local matching
6 funds, received by a district;

7 (20) General fund expenditures means all expenditures
8 from the general fund;

9 (21) General fund operating expenditures means:

10 (a) For state aid calculated for school fiscal years
11 prior to school fiscal year 2008-09, the total general fund
12 expenditures minus categorical funds, tuition paid, transportation
13 fees paid to other districts, adult education, summer school,
14 community services, redemption of the principal portion of general
15 fund debt service, retirement incentive plans, staff development
16 assistance, and transfers from other funds into the general fund
17 for the second school fiscal year immediately preceding the school
18 fiscal year in which aid is to be paid as reported on the annual
19 financial report prior to December 1 of the school fiscal year
20 immediately preceding the school fiscal year in which aid is to be
21 paid;

22 (b) For state aid calculated for school fiscal year
23 2008-09, as reported for the second school fiscal year immediately
24 preceding the school fiscal year in which aid is to be paid
25 on the annual financial report submitted prior to December

1 1 of the school fiscal year immediately preceding the school
2 fiscal year in which aid is to be paid, the total general
3 fund expenditures minus (i) the amount of all receipts to
4 the general fund, to the extent that such receipts are not
5 included in local system formula resources, from early childhood
6 education tuition, summer school tuition, educational entities as
7 defined in section 79-1201.01 for providing distance education
8 courses through the Educational Service Unit Coordinating Council
9 to such educational entities, private foundations, individuals,
10 associations, charitable organizations, the textbook loan program
11 authorized by section 79-734, and federal impact aid, (ii)
12 the amount of expenditures for categorical funds, tuition paid,
13 transportation fees paid to other districts, adult education,
14 community services, redemption of the principal portion of general
15 fund debt service, retirement incentive plans authorized by section
16 79-855, and staff development assistance authorized by section
17 79-856, and (iii) the amount of any transfers from the general fund
18 to any bond fund and transfers from other funds into the general
19 fund;

20 (c) For state aid calculated for school fiscal year
21 2009-10, as reported on the annual financial report for the second
22 school fiscal year immediately preceding the school fiscal year
23 in which aid is to be paid, the total general fund expenditures
24 minus (i) the amount of all receipts to the general fund, to the
25 extent that such receipts are not included in local system formula

1 resources, from early childhood education tuition, summer school
2 tuition, educational entities as defined in section 79-1201.01
3 for providing distance education courses through the Educational
4 Service Unit Coordinating Council to such educational entities,
5 private foundations, individuals, associations, charitable
6 organizations, the textbook loan program authorized by section
7 79-734, and federal impact aid, (ii) the amount of expenditures
8 for categorical funds, tuition paid, transportation fees paid to
9 other districts, adult education, community services, redemption
10 of the principal portion of general fund debt service, retirement
11 incentive plans authorized by section 79-855, and staff development
12 assistance authorized by section 79-856, (iii) the amount of any
13 transfers from the general fund to any bond fund and transfers from
14 other funds into the general fund, and (iv) any legal expenses in
15 excess of fifteen-hundredths of one percent of the formula need for
16 the school fiscal year in which the expenses occurred; and
17 (d) For state aid calculated for school fiscal year
18 2010-11 and each school fiscal year thereafter, as reported on
19 the annual financial report for the second school fiscal year
20 immediately preceding the school fiscal year in which aid is to be
21 paid, the total general fund expenditures minus (i) the amount of
22 all receipts to the general fund, to the extent that such receipts
23 are not included in local system formula resources, from early
24 childhood education tuition, summer school tuition, educational
25 entities as defined in section 79-1201.01 for providing distance

1 education courses through the Educational Service Unit Coordinating
2 Council to such educational entities, private foundations,
3 individuals, associations, charitable organizations, the textbook
4 loan program authorized by section 79-734, federal impact aid,
5 and levy override elections pursuant to section 77-3444, (ii)
6 the amount of expenditures for categorical funds, tuition paid,
7 transportation fees paid to other districts, adult education,
8 community services, redemption of the principal portion of general
9 fund debt service, retirement incentive plans authorized by section
10 79-855, and staff development assistance authorized by section
11 79-856, (iii) the amount of any transfers from the general fund
12 to any bond fund and transfers from other funds into the general
13 fund, (iv) any legal expenses in excess of fifteen-hundredths of
14 one percent of the formula need for the school fiscal year in which
15 the expenses occurred, (v) expenditures to pay for sums agreed to
16 be paid by a school district to certificated employees in exchange
17 for a voluntary termination occurring prior to July 1, 2009, and
18 (vi) (A) expenditures in school fiscal years 2009-10 through 2013-14
19 to pay for employer contributions pursuant to subsection (2) of
20 section 79-958 to the School Retirement System of the State of
21 Nebraska to the extent that such expenditures exceed the employer
22 contributions under such subsection that would have been made at a
23 contribution rate of seven and thirty-five hundredths percent or
24 (B) expenditures in school fiscal years 2009-10 through 2013-14
25 to pay for school district contributions pursuant to subdivision

1 (1) (c) (i) of section 79-9,113 to the Class V School Employees
2 Retirement System to the extent that such expenditures exceed the
3 school district contributions under such subdivision that would
4 have been made at a contribution rate of seven and thirty-seven
5 hundredths percent, and (vii) any amounts paid by the district for
6 lobbyist fees and expenses.

7 For purposes of this subdivision (21) of this section,
8 receipts from levy override elections shall equal ninety-nine
9 percent of the difference of the total general fund levy minus
10 a levy of one dollar and five cents per one hundred dollars of
11 taxable valuation multiplied by the assessed valuation for school
12 districts that have voted pursuant to section 77-3444 to override
13 the maximum levy provided pursuant to section 77-3442;

14 (22) High school district means a school district
15 providing instruction in at least grades nine through twelve;

16 (23) Income tax liability means the amount of the
17 reported income tax liability for resident individuals pursuant
18 to the Nebraska Revenue Act of 1967 less all nonrefundable credits
19 earned and refunds made;

20 (24) Income tax receipts means the amount of income tax
21 collected pursuant to the Nebraska Revenue Act of 1967 less all
22 nonrefundable credits earned and refunds made;

23 (25) Limited English proficiency students means (a) for
24 school fiscal years prior to school fiscal year 2009-10, the number
25 of students with limited English proficiency in a district from

1 the most recent data available on November 1 of the school fiscal
2 year preceding the school fiscal year in which aid is to be paid
3 and (b) for school fiscal year 2009-10 and each school fiscal year
4 thereafter, the number of students with limited English proficiency
5 in a district from the most recent data available on November 1 of
6 the school fiscal year preceding the school fiscal year in which
7 aid is to be paid plus the difference of such students with limited
8 English proficiency minus the average number of limited English
9 proficiency students for such district, prior to such addition,
10 for the three immediately preceding school fiscal years if such
11 difference is greater than zero;

12 (26) Local system means a learning community for purposes
13 of calculation of state aid for the second full school fiscal
14 year after becoming a learning community and each school fiscal
15 year thereafter, a unified system, a Class VI district and the
16 associated Class I districts, or a Class II, III, IV, or V
17 district and any affiliated Class I districts or portions of
18 Class I districts. The membership, expenditures, and resources of
19 Class I districts that are affiliated with multiple high school
20 districts will be attributed to local systems based on the percent
21 of the Class I valuation that is affiliated with each high school
22 district;

23 (27) Low-income child means (a) for school fiscal years
24 prior to 2008-09, a child under nineteen years of age living in
25 a household having an annual adjusted gross income of fifteen

1 thousand dollars or less for the second calendar year preceding
2 the beginning of the school fiscal year for which aid is being
3 calculated and (b) for school fiscal year 2008-09 and each school
4 fiscal year thereafter, a child under nineteen years of age living
5 in a household having an annual adjusted gross income for the
6 second calendar year preceding the beginning of the school fiscal
7 year for which aid is being calculated equal to or less than the
8 maximum household income that would allow a student from a family
9 of four people to be a free lunch and free milk student during the
10 school fiscal year immediately preceding the school fiscal year for
11 which aid is being calculated;

12 (28) Low-income students means the number of low-income
13 children within the district multiplied by the ratio of the formula
14 students in the district divided by the total children under
15 nineteen years of age residing in the district as derived from
16 income tax information;

17 (29) Most recently available complete data year means
18 the most recent single school fiscal year for which the annual
19 financial report, fall school district membership report, annual
20 statistical summary, Nebraska income tax liability by school
21 district for the calendar year in which the majority of the school
22 fiscal year falls, and adjusted valuation data are available;

23 (30) Poverty students means (a) for school fiscal years
24 prior to school fiscal year 2009-10, the number of low-income
25 students or the number of students who are free lunch and free milk

1 students in a district, whichever is greater, and (b) for school
2 fiscal year 2009-10 and each school fiscal year thereafter, the
3 number of low-income students or the number of students who are
4 free lunch and free milk students in a district plus the difference
5 of the number of low-income students or the number of students
6 who are free lunch and free milk students in a district, whichever
7 is greater, minus the average number of poverty students for
8 such district, prior to such addition, for the three immediately
9 preceding school fiscal years if such difference is greater than
10 zero;

11 (31) Qualified early childhood education average daily
12 membership means the product of the average daily membership for
13 school fiscal year 2006-07 and each school fiscal year thereafter
14 of students who will be eligible to attend kindergarten the
15 following school year and are enrolled in an early childhood
16 education program approved by the department pursuant to section
17 79-1103 for such school district for such school year multiplied by
18 the ratio of the actual instructional hours of the program divided
19 by one thousand thirty-two if: (a) The program is receiving a grant
20 pursuant to such section for the third year; (b) the program has
21 already received grants pursuant to such section for three years;
22 or (c) the program has been approved pursuant to subsection (5) of
23 section 79-1103 for such school year and the two preceding school
24 years, including any such students in portions of any of such
25 programs receiving an expansion grant;

(32) Qualified early childhood education fall membership means the product of membership on the last Friday in September 2006 and each year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(35) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

23 (36) Sparse local system means a local system that is not
24 a very sparse local system but which meets the following criteria:

25 (a) (i) Less than two students per square mile in the

1 county in which each high school is located, based on the school
2 district census, (ii) less than one formula student per square
3 mile in the local system, and (iii) more than ten miles between
4 each high school attendance center and the next closest high school
5 attendance center on paved roads;

6 (b) (i) Less than one and one-half formula students per
7 square mile in the local system and (ii) more than fifteen miles
8 between each high school attendance center and the next closest
9 high school attendance center on paved roads;

10 (c) (i) Less than one and one-half formula students per
11 square mile in the local system and (ii) more than two hundred
12 seventy-five square miles in the local system; or

13 (d) (i) Less than two formula students per square mile in
14 the local system and (ii) the local system includes an area equal
15 to ninety-five percent or more of the square miles in the largest
16 county in which a high school attendance center is located in the
17 local system;

18 (37) Special education means specially designed
19 kindergarten through grade twelve instruction pursuant to section
20 79-1125, and includes special education transportation;

21 (38) Special grant funds means the budgeted receipts for
22 grants, including, but not limited to, Title I funds, Title VI
23 funds, funds from the Education Innovation Fund, reimbursements
24 for wards of the court, short-term borrowings including, but
25 not limited to, registered warrants and tax anticipation notes,

1 interfund loans, insurance settlements, and reimbursements to
2 county government for previous overpayment. The state board shall
3 approve a listing of grants that qualify as special grant funds;

4 (39) State aid means the amount of assistance paid to a
5 district pursuant to the Tax Equity and Educational Opportunities
6 Support Act;

7 (40) State board means the State Board of Education;

8 (41) State support means all funds provided to districts
9 by the State of Nebraska for the general fund support of elementary
10 and secondary education;

11 (42) Statewide average basic funding per formula student
12 means the statewide total basic funding for all districts divided
13 by the statewide total formula students for all districts;

14 (43) Statewide average general fund operating
15 expenditures per formula student means the statewide total
16 general fund operating expenditures for all districts divided by
17 the statewide total formula students for all districts;

18 (44) Teacher has the definition found in section 79-101;

19 (45) Temporary aid adjustment factor means (a) for school
20 fiscal years before school fiscal year 2007-08, one and one-fourth
21 percent of the sum of the local system's transportation allowance,
22 the local system's special receipts allowance, and the product
23 of the local system's adjusted formula students multiplied by
24 the average formula cost per student in the local system's
25 cost grouping and (b) for school fiscal year 2007-08, one and

1 one-fourth percent of the sum of the local system's transportation
2 allowance, special receipts allowance, and distance education and
3 telecommunications allowance and the product of the local system's
4 adjusted formula students multiplied by the average formula cost
5 per student in the local system's cost grouping;

6 (46) Tuitioned students means students in kindergarten
7 through grade twelve of the district whose tuition is paid by the
8 district to some other district or education agency; and

9 (47) Very sparse local system means a local system that
10 has:

11 (a) (i) Less than one-half student per square mile in
12 each county in which each high school attendance center is located
13 based on the school district census, (ii) less than one formula
14 student per square mile in the local system, and (iii) more than
15 fifteen miles between the high school attendance center and the
16 next closest high school attendance center on paved roads; or

17 (b) (i) More than four hundred fifty square miles in the
18 local system, (ii) less than one-half student per square mile in
19 the local system, and (iii) more than fifteen miles between each
20 high school attendance center and the next closest high school
21 attendance center on paved roads.

22 Sec. 2. Original section 79-1003, Revised Statutes
23 Supplement, 2009, as amended by section 3, Legislative Bill 5,
24 One Hundred First Legislature, First Special Session, 2009, is
25 repealed.

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1 Sec. 3. Since an emergency exists, this act takes effect
2 when passed and approved according to law.