

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 416**

Introduced by Kolowski, 31.

Read first time January 22, 2013

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities  
2 Support Act; to amend sections 79-1001, 79-1003, and  
3 79-1007.25, Revised Statutes Cumulative Supplement, 2012;  
4 to change provisions relating to the teacher education  
5 allowance; to state intent relating to incentives; to  
6 harmonize provisions; and to repeal the original  
7 sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 79-1001, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3           79-1001 Sections 79-1001 to 79-1033 and section 4 of this  
4 act shall be known and may be cited as the Tax Equity and Educational  
5 Opportunities Support Act.

6           Sec. 2. Section 79-1003, Revised Statutes Cumulative  
7 Supplement, 2012, is amended to read:

8           79-1003 For purposes of the Tax Equity and Educational  
9 Opportunities Support Act:

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

1 receipts allowance, poverty allowance, limited English proficiency  
2 allowance, distance education and telecommunications allowance,  
3 elementary site allowance, summer school allowance, instructional  
4 time allowance, teacher education allowance, and focus school and  
5 program allowance, and (c) for school fiscal year 2014-15 and each  
6 school fiscal year thereafter, the difference of the general fund  
7 operating expenditures as calculated pursuant to subdivision (22) of  
8 this section increased by the cost growth factor calculated pursuant  
9 to section 79-1007.10, minus the transportation allowance, special  
10 receipts allowance, poverty allowance, limited English proficiency  
11 allowance, distance education and telecommunications allowance,  
12 elementary site allowance, summer school allowance, instructional  
13 time allowance, and focus school and program allowance;

14 (2) Adjusted valuation means the assessed valuation of  
15 taxable property of each local system in the state, adjusted pursuant  
16 to the adjustment factors described in section 79-1016. Adjusted  
17 valuation means the adjusted valuation for the property tax year  
18 ending during the school fiscal year immediately preceding the school  
19 fiscal year in which the aid based upon that value is to be paid. For  
20 purposes of determining the local effort rate yield pursuant to  
21 section 79-1015.01, adjusted valuation does not include the value of  
22 any property which a court, by a final judgment from which no appeal  
23 is taken, has declared to be nontaxable or exempt from taxation;

24 (3) Allocated income tax funds means the amount of  
25 assistance paid to a local system pursuant to section 79-1005.01 as

1 adjusted by the minimum levy adjustment pursuant to section  
2 79-1008.02;

3 (4) Average daily membership means the average daily  
4 membership for grades kindergarten through twelve attributable to the  
5 local system, as provided in each district's annual statistical  
6 summary, and includes the proportionate share of students enrolled in  
7 a public school instructional program on less than a full-time basis;

8 (5) Base fiscal year means the first school fiscal year  
9 following the school fiscal year in which the reorganization or  
10 unification occurred;

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

12 (7) Categorical funds means funds limited to a specific  
13 purpose by federal or state law, including, but not limited to, Title  
14 I funds, Title VI funds, federal vocational education funds, federal  
15 school lunch funds, Indian education funds, Head Start funds, and  
16 funds from the Education Innovation Fund. Categorical funds does not  
17 include funds received pursuant to section 79-1028.02 or 79-1028.04;

18 (8) Consolidate means to voluntarily reduce the number of  
19 school districts providing education to a grade group and does not  
20 include dissolution pursuant to section 79-498;

21 (9) Converted contract means an expired contract that was  
22 in effect for at least fifteen school years beginning prior to school  
23 year 2012-13 for the education of students in a nonresident district  
24 in exchange for tuition from the resident district when the  
25 expiration of such contract results in the nonresident district

1 educating students, who would have been covered by the contract if  
2 the contract were still in effect, as option students pursuant to the  
3 enrollment option program established in section 79-234;

4 (10) Converted contract option student means a student  
5 who will be an option student pursuant to the enrollment option  
6 program established in section 79-234 for the school fiscal year for  
7 which aid is being calculated and who would have been covered by a  
8 converted contract if the contract were still in effect and such  
9 school fiscal year is the first school fiscal year for which such  
10 contract is not in effect;

11 (11) Department means the State Department of Education;

12 (12) District means any Class I, II, III, IV, V, or VI  
13 school district and, beginning with the calculation of state aid for  
14 school fiscal year 2011-12 and each school fiscal year thereafter, a  
15 unified system as defined in section 79-4,108;

16 (13) Ensuing school fiscal year means the school fiscal  
17 year following the current school fiscal year;

18 (14) Equalization aid means the amount of assistance  
19 calculated to be paid to a local system pursuant to sections  
20 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022,  
21 79-1022.02, 79-1028.02, and 79-1028.04;

22 (15) Fall membership means the total membership in  
23 kindergarten through grade twelve attributable to the local system as  
24 reported on the fall school district membership reports for each  
25 district pursuant to section 79-528;

1                   (16) Fiscal year means the state fiscal year which is the  
2 period from July 1 to the following June 30;

3                   (17) Formula students means:

4                   (a) For state aid certified pursuant to section 79-1022,  
5 the sum of the product of fall membership from the school fiscal year  
6 immediately preceding the school fiscal year in which the aid is to  
7 be paid multiplied by the average ratio of average daily membership  
8 to fall membership for the second school fiscal year immediately  
9 preceding the school fiscal year in which the aid is to be paid and  
10 the prior two school fiscal years plus sixty percent of the qualified  
11 early childhood education fall membership plus tuitioned students  
12 from the school fiscal year immediately preceding the school fiscal  
13 year in which aid is to be paid minus the product of the number of  
14 students enrolled in kindergarten that is not full-day kindergarten  
15 from the fall membership multiplied by 0.5; and

16                   (b) For the final calculation of state aid pursuant to  
17 section 79-1065, the sum of average daily membership plus sixty  
18 percent of the qualified early childhood education average daily  
19 membership plus tuitioned students minus the product of the number of  
20 students enrolled in kindergarten that is not full-day kindergarten  
21 from the average daily membership multiplied by 0.5 from the school  
22 fiscal year immediately preceding the school fiscal year in which aid  
23 was paid;

24                   (18) Free lunch and free milk student means a student who  
25 qualified for free lunches or free milk from the most recent data

1 available on November 1 of the school fiscal year immediately  
2 preceding the school fiscal year in which aid is to be paid;

3 (19) Full-day kindergarten means kindergarten offered by  
4 a district for at least one thousand thirty-two instructional hours;

5 (20) General fund budget of expenditures means the total  
6 budget of disbursements and transfers for general fund purposes as  
7 certified in the budget statement adopted pursuant to the Nebraska  
8 Budget Act, except that for purposes of the limitation imposed in  
9 section 79-1023 and the calculation pursuant to subdivision (2) of  
10 section 79-1027.01, the general fund budget of expenditures does not  
11 include any special grant funds, exclusive of local matching funds,  
12 received by a district;

13 (21) General fund expenditures means all expenditures  
14 from the general fund;

15 (22) General fund operating expenditures means:

16 (a) For state aid calculated for school fiscal years  
17 2010-11 and 2011-12, as reported on the annual financial report for  
18 the second school fiscal year immediately preceding the school fiscal  
19 year in which aid is to be paid, the total general fund expenditures  
20 minus (i) the amount of all receipts to the general fund, to the  
21 extent that such receipts are not included in local system formula  
22 resources, from early childhood education tuition, summer school  
23 tuition, educational entities as defined in section 79-1201.01 for  
24 providing distance education courses through the Educational Service  
25 Unit Coordinating Council to such educational entities, private

1 foundations, individuals, associations, charitable organizations, the  
2 textbook loan program authorized by section 79-734, federal impact  
3 aid, and levy override elections pursuant to section 77-3444, (ii)  
4 the amount of expenditures for categorical funds, tuition paid,  
5 transportation fees paid to other districts, adult education,  
6 community services, redemption of the principal portion of general  
7 fund debt service, retirement incentive plans authorized by section  
8 79-855, and staff development assistance authorized by section  
9 79-856, (iii) the amount of any transfers from the general fund to  
10 any bond fund and transfers from other funds into the general fund,  
11 (iv) any legal expenses in excess of fifteen-hundredths of one  
12 percent of the formula need for the school fiscal year in which the  
13 expenses occurred, (v) expenditures to pay for sums agreed to be paid  
14 by a school district to certificated employees in exchange for a  
15 voluntary termination occurring prior to July 1, 2009, and (vi)(A)  
16 expenditures in school fiscal years 2009-10 through 2013-14 to pay  
17 for employer contributions pursuant to subsection (2) of section  
18 79-958 to the School Retirement System of the State of Nebraska to  
19 the extent that such expenditures exceed the employer contributions  
20 under such subsection that would have been made at a contribution  
21 rate of seven and thirty-five hundredths percent or (B) expenditures  
22 in school fiscal years 2009-10 through 2013-14 to pay for school  
23 district contributions pursuant to subdivision (1)(c)(i) of section  
24 79-9,113 to the retirement system established pursuant to the Class V  
25 School Employees Retirement Act to the extent that such expenditures

1 exceed the school district contributions under such subdivision that  
2 would have been made at a contribution rate of seven and thirty-seven  
3 hundredths percent; and

4 (b) For state aid calculated for school fiscal years  
5 2012-13 and each school fiscal year thereafter, as reported on the  
6 annual financial report for the second school fiscal year immediately  
7 preceding the school fiscal year in which aid is to be paid, the  
8 total general fund expenditures minus (i) the amount of all receipts  
9 to the general fund, to the extent that such receipts are not  
10 included in local system formula resources, from early childhood  
11 education tuition, summer school tuition, educational entities as  
12 defined in section 79-1201.01 for providing distance education  
13 courses through the Educational Service Unit Coordinating Council to  
14 such educational entities, private foundations, individuals,  
15 associations, charitable organizations, the textbook loan program  
16 authorized by section 79-734, federal impact aid, and levy override  
17 elections pursuant to section 77-3444, (ii) the amount of  
18 expenditures for categorical funds, tuition paid, transportation fees  
19 paid to other districts, adult education, community services,  
20 redemption of the principal portion of general fund debt service,  
21 retirement incentive plans authorized by section 79-855, and staff  
22 development assistance authorized by section 79-856, (iii) the amount  
23 of any transfers from the general fund to any bond fund and transfers  
24 from other funds into the general fund, (iv) any legal expenses in  
25 excess of fifteen-hundredths of one percent of the formula need for

1 the school fiscal year in which the expenses occurred, (v)  
2 expenditures to pay for sums agreed to be paid by a school district  
3 to certificated employees in exchange for a voluntary termination  
4 occurring prior to July 1, 2009, or occurring on or after the last  
5 day of the 2010-11 school year and prior to the first day of the  
6 2013-14 school year, (vi)(A) expenditures in school fiscal years  
7 2009-10 through 2016-17 to pay for employer contributions pursuant to  
8 subsection (2) of section 79-958 to the School Employees Retirement  
9 System of the State of Nebraska to the extent that such expenditures  
10 exceed the employer contributions under such subsection that would  
11 have been made at a contribution rate of seven and thirty-five  
12 hundredths percent or (B) expenditures in school fiscal years 2009-10  
13 through 2016-17 to pay for school district contributions pursuant to  
14 subdivision (1)(c)(i) of section 79-9,113 to the retirement system  
15 established pursuant to the Class V School Employees Retirement Act  
16 to the extent that such expenditures exceed the school district  
17 contributions under such subdivision that would have been made at a  
18 contribution rate of seven and thirty-seven hundredths percent, and  
19 (vii) any amounts paid by the district for lobbyist fees and expenses  
20 reported to the Clerk of the Legislature pursuant to section 49-1483.

21 For purposes of this subdivision (22) of this section,  
22 receipts from levy override elections shall equal ninety-nine percent  
23 of the difference of the total general fund levy minus a levy of one  
24 dollar and five cents per one hundred dollars of taxable valuation  
25 multiplied by the assessed valuation for school districts that have

1 voted pursuant to section 77-3444 to override the maximum levy  
2 provided pursuant to section 77-3442;

3 (23) High school district means a school district  
4 providing instruction in at least grades nine through twelve;

5 (24) Income tax liability means the amount of the  
6 reported income tax liability for resident individuals pursuant to  
7 the Nebraska Revenue Act of 1967 less all nonrefundable credits  
8 earned and refunds made;

9 (25) Income tax receipts means the amount of income tax  
10 collected pursuant to the Nebraska Revenue Act of 1967 less all  
11 nonrefundable credits earned and refunds made;

12 (26) Limited English proficiency students means the  
13 number of students with limited English proficiency in a district  
14 from the most recent data available on November 1 of the school  
15 fiscal year preceding the school fiscal year in which aid is to be  
16 paid plus the difference of such students with limited English  
17 proficiency minus the average number of limited English proficiency  
18 students for such district, prior to such addition, for the three  
19 immediately preceding school fiscal years if such difference is  
20 greater than zero;

21 (27) Local system means a learning community for purposes  
22 of calculation of state aid for the second full school fiscal year  
23 after becoming a learning community and each school fiscal year  
24 thereafter, a unified system, a Class VI district and the associated  
25 Class I districts, or a Class II, III, IV, or V district and any

1 affiliated Class I districts or portions of Class I districts. The  
2 membership, expenditures, and resources of Class I districts that are  
3 affiliated with multiple high school districts will be attributed to  
4 local systems based on the percent of the Class I valuation that is  
5 affiliated with each high school district;

6 (28) Low-income child means a child under nineteen years  
7 of age living in a household having an annual adjusted gross income  
8 for the second calendar year preceding the beginning of the school  
9 fiscal year for which aid is being calculated equal to or less than  
10 the maximum household income that would allow a student from a family  
11 of four people to be a free lunch and free milk student during the  
12 school fiscal year immediately preceding the school fiscal year for  
13 which aid is being calculated;

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

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

25 (31) Poverty students means the number of low-income

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

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

23 (33) Qualified early childhood education fall membership  
24 means the product of membership on the last Friday in September 2006  
25 and each year thereafter of students who will be eligible to attend

1 kindergarten the following school year and are enrolled in an early  
2 childhood education program approved by the department pursuant to  
3 section 79-1103 for such school district for such school year  
4 multiplied by the ratio of the planned instructional hours of the  
5 program divided by one thousand thirty-two if: (a) The program is  
6 receiving a grant pursuant to such section for the third year; (b)  
7 the program has already received grants pursuant to such section for  
8 three years; or (c) the program has been approved pursuant to  
9 subsection (5) of section 79-1103 for such school year and the two  
10 preceding school years, including any such students in portions of  
11 any of such programs receiving an expansion grant;

12 (34) Regular route transportation means the  
13 transportation of students on regularly scheduled daily routes to and  
14 from the attendance center;

15 (35) Reorganized district means any district involved in  
16 a consolidation and currently educating students following  
17 consolidation;

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

20 (37) Sparse local system means a local system that is not  
21 a very sparse local system but which meets the following criteria:

22 (a)(i) Less than two students per square mile in the  
23 county in which each high school is located, based on the school  
24 district census, (ii) less than one formula student per square mile  
25 in the local system, and (iii) more than ten miles between each high

1 school attendance center and the next closest high school attendance  
2 center on paved roads;

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

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

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

15 (38) Special education means specially designed  
16 kindergarten through grade twelve instruction pursuant to section  
17 79-1125, and includes special education transportation;

18 (39) Special grant funds means the budgeted receipts for  
19 grants, including, but not limited to, categorical funds,  
20 reimbursements for wards of the court, short-term borrowings  
21 including, but not limited to, registered warrants and tax  
22 anticipation notes, interfund loans, insurance settlements, and  
23 reimbursements to county government for previous overpayment. The  
24 state board shall approve a listing of grants that qualify as special  
25 grant funds;

1                   (40) State aid means the amount of assistance paid to a  
2 district pursuant to the Tax Equity and Educational Opportunities  
3 Support Act;

4                   (41) State board means the State Board of Education;

5                   (42) State support means all funds provided to districts  
6 by the State of Nebraska for the general fund support of elementary  
7 and secondary education;

8                   (43) Statewide average basic funding per formula student  
9 means the statewide total basic funding for all districts divided by  
10 the statewide total formula students for all districts;

11                   (44) Statewide average general fund operating  
12 expenditures per formula student means the statewide total general  
13 fund operating expenditures for all districts divided by the  
14 statewide total formula students for all districts;

15                   (45) Teacher has the definition found in section 79-101;

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

1 multiplied by the average formula cost per student in the local  
2 system's cost grouping;

3 (47) Tuition receipts from converted contracts means  
4 tuition receipts received by a district from another district in the  
5 most recently available complete data year pursuant to a converted  
6 contract prior to the expiration of the contract;

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

10 (49) Very sparse local system means a local system that  
11 has:

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

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

23 Sec. 3. Section 79-1007.25, Revised Statutes Cumulative  
24 Supplement, 2012, is amended to read:

25 79-1007.25 For school fiscal ~~year~~years 2010-11 ~~and each~~

1 ~~school fiscal year thereafter, through 2013-14,~~ the department shall  
2 calculate a teacher education allowance for each district as follows:

3 (1) Teacher education points shall be calculated for each  
4 district by the department based upon data from the fall personnel  
5 report required pursuant to section 79-804 for the school fiscal year  
6 immediately preceding the school fiscal year in which aid is to be  
7 paid. Each full-time equivalent teacher shall (a) be under contract  
8 with a school district as required pursuant to section 79-818 and (b)  
9 only be counted one time in awarding any points pursuant to this  
10 section. Each district shall receive one point for each full-time  
11 equivalent teacher who has earned and been awarded a master's degree  
12 or an education specialist's degree and two points for each full-time  
13 equivalent teacher who has earned and been awarded a doctoral degree;

14 (2) A teacher education index shall be calculated for  
15 each district by dividing the ratio of teacher education points for  
16 the district divided by the number of full-time equivalent teachers  
17 in the district by the ratio of teacher education points for all  
18 districts divided by the number of full-time equivalent teachers in  
19 all districts; and

20 (3) The teacher education allowance for each district  
21 shall equal eight and one-half percent of the statewide average  
22 general fund operating expenditures per formula student multiplied by  
23 the district's formula students and multiplied by the difference of  
24 the product of the district's teacher education index minus one,  
25 except that if the result is less than zero, the teacher education

1 allowance shall equal zero.

2           Sec. 4. For school fiscal year 2014-15 and each school  
3 fiscal year thereafter, in lieu of the teacher education allowance  
4 calculated pursuant to section 79-1007.25, it is the intent of the  
5 Legislature to develop and establish a system for rewarding teachers  
6 who take the initiative to improve their skills and knowledge with  
7 the goal of improving student achievement, including:

8           (1) Attaining an advanced degree in their subject area  
9 field;

10           (2) Attaining an endorsement in a teacher shortage area;

11           (3) Attaining credentials to teach advanced placement  
12 courses;

13           (4) Attaining credentials to teach in the International  
14 Baccalaureate program;

15           (5) Attaining credentials to qualify as a master teacher  
16 pursuant to section 79-8,128;

17           (6) Attaining credentials to teach dual enrollment  
18 courses established by a school district and an accredited  
19 postsecondary educational institution located in Nebraska; or

20           (7) Attaining an endorsement to teach courses in science,  
21 technology, engineering, or mathematics.

22           Sec. 5. Original sections 79-1001, 79-1003, and  
23 79-1007.25, Revised Statutes Cumulative Supplement, 2012, are  
24 repealed.