

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1004

Introduced by Cook, 13.

Read first time January 15, 2016

Committee: Education

- 1 A BILL FOR AN ACT relating to schools; to amend sections 79-1003 and
- 2 79-2120, Revised Statutes Supplement, 2015; to change provisions
- 3 relating to the Community Eligibility Provision; to redefine a term;
- 4 to provide duties for the State Department of Education; to
- 5 harmonize provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Revised Statutes Supplement, 2015, is
2 amended to read:

3 79-1003 For purposes of the Tax Equity and Educational Opportunities
4 Support Act:

5 (1) Adjusted general fund operating expenditures means (a) for
6 school fiscal years 2013-14 through 2015-16, the difference of the
7 general fund operating expenditures as calculated pursuant to subdivision
8 (23) of this section increased by the cost growth factor calculated
9 pursuant to section 79-1007.10, minus the transportation allowance,
10 special receipts allowance, poverty allowance, limited English
11 proficiency allowance, distance education and telecommunications
12 allowance, elementary site allowance, summer school allowance,
13 instructional time allowance, teacher education allowance, and focus
14 school and program allowance, and (b) for school fiscal year 2016-17 and
15 each school fiscal year thereafter, the difference of the general fund
16 operating expenditures as calculated pursuant to subdivision (23) of this
17 section increased by the cost growth factor calculated pursuant to
18 section 79-1007.10, minus the transportation allowance, special receipts
19 allowance, poverty allowance, limited English proficiency allowance,
20 distance education and telecommunications allowance, elementary site
21 allowance, summer school allowance, best practices allowance, and focus
22 school and program allowance;

23 (2) Adjusted valuation means the assessed valuation of taxable
24 property of each local system in the state, adjusted pursuant to the
25 adjustment factors described in section 79-1016. Adjusted valuation means
26 the adjusted valuation for the property tax year ending during the school
27 fiscal year immediately preceding the school fiscal year in which the aid
28 based upon that value is to be paid. For purposes of determining the
29 local effort rate yield pursuant to section 79-1015.01, adjusted
30 valuation does not include the value of any property which a court, by a
31 final judgment from which no appeal is taken, has declared to be

1 nontaxable or exempt from taxation;

2 (3) Allocated income tax funds means the amount of assistance paid
3 to a local system pursuant to section 79-1005.01 as adjusted by the
4 minimum levy adjustment pursuant to section 79-1008.02;

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

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

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

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

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

23 (9) Converted contract means an expired contract that was in effect
24 for at least fifteen school years beginning prior to school year 2012-13
25 for the education of students in a nonresident district in exchange for
26 tuition from the resident district when the expiration of such contract
27 results in the nonresident district educating students, who would have
28 been covered by the contract if the contract were still in effect, as
29 option students pursuant to the enrollment option program established in
30 section 79-234;

31 (10) Converted contract option student means a student who will be

1 an option student pursuant to the enrollment option program established
2 in section 79-234 for the school fiscal year for which aid is being
3 calculated and who would have been covered by a converted contract if the
4 contract were still in effect and such school fiscal year is the first
5 school fiscal year for which such contract is not in effect;

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

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

11 (13) Ensuing school fiscal year means the school fiscal year
12 following the current school fiscal year;

13 (14) Equalization aid means the amount of assistance calculated to
14 be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23,
15 79-1007.25, 79-1008.01 to 79-1022, 79-1022.02, 79-1028.02, and
16 79-1028.04;

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

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

23 (17) Formula students means:

24 (a) For state aid certified pursuant to section 79-1022, the sum of
25 the product of fall membership from the school fiscal year immediately
26 preceding the school fiscal year in which the aid is to be paid
27 multiplied by the average ratio of average daily membership to fall
28 membership for the second school fiscal year immediately preceding the
29 school fiscal year in which the aid is to be paid and the prior two
30 school fiscal years plus sixty percent of the qualified early childhood
31 education fall membership plus tuitioned students from the school fiscal

1 year immediately preceding the school fiscal year in which aid is to be
2 paid minus the product of the number of students enrolled in kindergarten
3 that is not full-day kindergarten from the fall membership multiplied by
4 0.5; and

5 (b) For the final calculation of state aid pursuant to section
6 79-1065, the sum of average daily membership plus sixty percent of the
7 qualified early childhood education average daily membership plus
8 tuitioned students minus the product of the number of students enrolled
9 in kindergarten that is not full-day kindergarten from the average daily
10 membership multiplied by 0.5 from the school fiscal year immediately
11 preceding the school fiscal year in which aid was paid;

12 (18) Free lunch and free milk calculated student means:

13 (a) For , for school fiscal year 2016-17 and each school fiscal year
14 thereafter, using the most recent data available on November 1 of the
15 school fiscal year immediately preceding the school fiscal year in which
16 aid is to be paid, (i a) a student who qualified for free lunches or free
17 milk and attended a school that uses information collected from parents
18 and guardians pursuant to section 79-10,143 to determine such
19 qualifications pursuant to the federal Richard B. Russell National School
20 Lunch Act, 42 U.S.C. 1751 et seq., and the federal Child Nutrition Act of
21 1966, 42 U.S.C. 1771 et seq., as such acts and sections existed on
22 January 1, 2015, and rules and regulations adopted thereunder, plus (ii
23 b) the product of the students who attend a school that provides free
24 meals to all students pursuant to the community eligibility provision,
25 multiplied by the identified student percentage calculated pursuant to
26 such federal provision; and

27 (b) For school fiscal year 2017-18 and each school fiscal year
28 thereafter, using the most recent data available on November 1 of the
29 school fiscal year immediately preceding the school fiscal year in which
30 aid is to be paid, (i) a student who qualified for free lunches or free
31 milk plus (ii) the greater of the product of the students who attend a

1 school that provides free meals to all students pursuant to the community
2 eligibility provision, utilizing the identified student percentage
3 calculated pursuant to such federal provision multiplied by 1.1, or the
4 number of students in such school who qualified for free lunch or free
5 milk using the most recent school fiscal year in which such data was
6 collected;

7 (19) Free lunch and free milk student means, for school fiscal years
8 prior to school fiscal year 2016-17, a student who qualified for free
9 lunches or free milk from the most recent data available on November 1 of
10 the school fiscal year immediately preceding the school fiscal year in
11 which aid is to be paid;

12 (20) Full-day kindergarten means kindergarten offered by a district
13 for at least one thousand thirty-two instructional hours;

14 (21) General fund budget of expenditures means the total budget of
15 disbursements and transfers for general fund purposes as certified in the
16 budget statement adopted pursuant to the Nebraska Budget Act, except that
17 for purposes of the limitation imposed in section 79-1023 and the
18 calculation pursuant to subdivision (2) of section 79-1027.01, the
19 general fund budget of expenditures does not include any special grant
20 funds, exclusive of local matching funds, received by a district;

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

23 (23) General fund operating expenditures means for state aid
24 calculated for school fiscal years 2012-13 and each school fiscal year
25 thereafter, as reported on the annual financial report for the second
26 school fiscal year immediately preceding the school fiscal year in which
27 aid is to be paid, the total general fund expenditures minus (a) the
28 amount of all receipts to the general fund, to the extent that such
29 receipts are not included in local system formula resources, from early
30 childhood education tuition, summer school tuition, educational entities
31 as defined in section 79-1201.01 for providing distance education courses

1 through the Educational Service Unit Coordinating Council to such
2 educational entities, private foundations, individuals, associations,
3 charitable organizations, the textbook loan program authorized by section
4 79-734, federal impact aid, and levy override elections pursuant to
5 section 77-3444, (b) the amount of expenditures for categorical funds,
6 tuition paid, transportation fees paid to other districts, adult
7 education, community services, redemption of the principal portion of
8 general fund debt service, retirement incentive plans authorized by
9 section 79-855, and staff development assistance authorized by section
10 79-856, (c) the amount of any transfers from the general fund to any bond
11 fund and transfers from other funds into the general fund, (d) any legal
12 expenses in excess of fifteen-hundredths of one percent of the formula
13 need for the school fiscal year in which the expenses occurred, (e)
14 expenditures to pay for sums agreed to be paid by a school district to
15 certificated employees in exchange for a voluntary termination occurring
16 prior to July 1, 2009, occurring on or after the last day of the 2010-11
17 school year and prior to the first day of the 2013-14 school year, or, to
18 the extent that a district has demonstrated to the State Board of
19 Education pursuant to section 79-1028.01 that the agreement will result
20 in a net savings in salary and benefit costs to the school district over
21 a five-year period, occurring on or after the first day of the 2013-14
22 school year, (f)(i) expenditures to pay for employer contributions
23 pursuant to subsection (2) of section 79-958 to the School Employees
24 Retirement System of the State of Nebraska to the extent that such
25 expenditures exceed the employer contributions under such subsection that
26 would have been made at a contribution rate of seven and thirty-five
27 hundredths percent or (ii) expenditures to pay for school district
28 contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to
29 the retirement system established pursuant to the Class V School
30 Employees Retirement Act to the extent that such expenditures exceed the
31 school district contributions under such subdivision that would have been

1 made at a contribution rate of seven and thirty-seven hundredths percent,
2 and (g) any amounts paid by the district for lobbyist fees and expenses
3 reported to the Clerk of the Legislature pursuant to section 49-1483.

4 For purposes of this subdivision (23) of this section, receipts from
5 levy override elections shall equal ninety-nine percent of the difference
6 of the total general fund levy minus a levy of one dollar and five cents
7 per one hundred dollars of taxable valuation multiplied by the assessed
8 valuation for school districts that have voted pursuant to section
9 77-3444 to override the maximum levy provided pursuant to section
10 77-3442;

11 (24) High school district means a school district providing
12 instruction in at least grades nine through twelve;

13 (25) Income tax liability means the amount of the reported income
14 tax liability for resident individuals pursuant to the Nebraska Revenue
15 Act of 1967 less all nonrefundable credits earned and refunds made;

16 (26) Income tax receipts means the amount of income tax collected
17 pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable
18 credits earned and refunds made;

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

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

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

6 (29) Low-income child means (a) for school fiscal years prior to
7 2016-17, a child under nineteen years of age living in a household having
8 an annual adjusted gross income for the second calendar year preceding
9 the beginning of the school fiscal year for which aid is being calculated
10 equal to or less than the maximum household income that would allow a
11 student from a family of four people to be a free lunch and free milk
12 student during the school fiscal year immediately preceding the school
13 fiscal year for which aid is being calculated and (b) for school fiscal
14 year 2016-17 and each school fiscal year thereafter, a child under
15 nineteen years of age living in a household having an annual adjusted
16 gross income for the second calendar year preceding the beginning of the
17 school fiscal year for which aid is being calculated equal to or less
18 than the maximum household income pursuant to sections 9(b)(1) and 17(c)
19 (4) of the Richard B. Russell National School Lunch Act, 42 U.S.C.
20 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6)
21 and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6)
22 and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections
23 existed on January 1, 2015, for a household of that size that would have
24 allowed the child to meet the income qualifications for free meals during
25 the school fiscal year immediately preceding the school fiscal year for
26 which aid is being calculated;

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

31 (31) Most recently available complete data year means the most

1 recent single school fiscal year for which the annual financial report,
2 fall school district membership report, annual statistical summary,
3 Nebraska income tax liability by school district for the calendar year in
4 which the majority of the school fiscal year falls, and adjusted
5 valuation data are available;

6 (32) Poverty students means (a) for school fiscal years prior to
7 2016-17, the number of low-income students or the number of students who
8 are free lunch and free milk students in a district plus the difference
9 of the number of low-income students or the number of students who are
10 free lunch and free milk students in a district, whichever is greater,
11 minus the average number of poverty students for such district, prior to
12 such addition, for the three immediately preceding school fiscal years if
13 such difference is greater than zero and (b) for school fiscal year
14 2016-17 and each school fiscal year thereafter, the unadjusted poverty
15 students plus the difference of such unadjusted poverty students minus
16 the average number of poverty students for such district, prior to such
17 addition, for the three immediately preceding school fiscal years if such
18 difference is greater than zero;

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

1 an expansion grant;

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

15 (35) Regular route transportation means the transportation of
16 students on regularly scheduled daily routes to and from the attendance
17 center;

18 (36) Reorganized district means any district involved in a
19 consolidation and currently educating students following consolidation;

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

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

24 (a)(i) Less than two students per square mile in the county in which
25 each high school is located, based on the school district census, (ii)
26 less than one formula student per square mile in the local system, and
27 (iii) more than ten miles between each high school attendance center and
28 the next closest high school attendance center on paved roads;

29 (b)(i) Less than one and one-half formula students per square mile
30 in the local system and (ii) more than fifteen miles between each high
31 school attendance center and the next closest high school attendance

1 center on paved roads;

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

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

9 (39) Special education means specially designed kindergarten through
10 grade twelve instruction pursuant to section 79-1125, and includes
11 special education transportation;

12 (40) Special grant funds means the budgeted receipts for grants,
13 including, but not limited to, categorical funds, reimbursements for
14 wards of the court, short-term borrowings including, but not limited to,
15 registered warrants and tax anticipation notes, interfund loans,
16 insurance settlements, and reimbursements to county government for
17 previous overpayment. The state board shall approve a listing of grants
18 that qualify as special grant funds;

19 (41) State aid means the amount of assistance paid to a district
20 pursuant to the Tax Equity and Educational Opportunities Support Act;

21 (42) State board means the State Board of Education;

22 (43) State support means all funds provided to districts by the
23 State of Nebraska for the general fund support of elementary and
24 secondary education;

25 (44) Statewide average basic funding per formula student means the
26 statewide total basic funding for all districts divided by the statewide
27 total formula students for all districts;

28 (45) Statewide average general fund operating expenditures per
29 formula student means the statewide total general fund operating
30 expenditures for all districts divided by the statewide total formula
31 students for all districts;

1 (46) Teacher has the definition found in section 79-101;

2 (47) Temporary aid adjustment factor means (a) for school fiscal
3 years before school fiscal year 2007-08, one and one-fourth percent of
4 the sum of the local system's transportation allowance, the local
5 system's special receipts allowance, and the product of the local
6 system's adjusted formula students multiplied by the average formula cost
7 per student in the local system's cost grouping and (b) for school fiscal
8 year 2007-08, one and one-fourth percent of the sum of the local system's
9 transportation allowance, special receipts allowance, and distance
10 education and telecommunications allowance and the product of the local
11 system's adjusted formula students multiplied by the average formula cost
12 per student in the local system's cost grouping;

13 (48) Tuition receipts from converted contracts means tuition
14 receipts received by a district from another district in the most
15 recently available complete data year pursuant to a converted contract
16 prior to the expiration of the contract;

17 (49) Tuitioned students means students in kindergarten through grade
18 twelve of the district whose tuition is paid by the district to some
19 other district or education agency;

20 (50) Unadjusted poverty students means, for school fiscal year
21 2016-17 and each school fiscal year thereafter, the greater of the number
22 of low-income students or the free lunch and free milk calculated
23 students in a district; and

24 (51) Very sparse local system means a local system that has:

25 (a)(i) Less than one-half student per square mile in each county in
26 which each high school attendance center is located based on the school
27 district census, (ii) less than one formula student per square mile in
28 the local system, and (iii) more than fifteen miles between the high
29 school attendance center and the next closest high school attendance
30 center on paved roads; or

31 (b)(i) More than four hundred fifty square miles in the local

1 system, (ii) less than one-half student per square mile in the local
2 system, and (iii) more than fifteen miles between each high school
3 attendance center and the next closest high school attendance center on
4 paved roads.

5 Sec. 2. Section 79-2120, Revised Statutes Supplement, 2015, is
6 amended to read:

7 79-2120 On or before March 1, 2009, and February 1 of each year
8 thereafter, for purposes of subsection (3) of section 79-238 and sections
9 79-611 and 79-2110, the State Department of Education shall certify to
10 each learning community and each member school district the average
11 percentage of students qualifying for free or reduced-price lunches in
12 each school building in each member school district and in the aggregate
13 for all school buildings in the learning community based on the most
14 current information available to the department on the immediately
15 preceding January 1. For purposes of this section, the average percentage
16 of students qualifying for free or reduced-price lunches in school
17 buildings that provide free meals to all students pursuant to the
18 community eligibility provision shall equal the identified student
19 percentage, multiplied by 1.6, calculated pursuant to the community
20 eligibility provision. The State Board of Education may adopt and
21 promulgate rules and regulations to carry out this section.

22 Sec. 3. Within thirty days after the effective date of this act,
23 and on or before each May 1 thereafter, the State Department of Education
24 shall promote the community eligibility provision to schools and school
25 districts eligible to participate in the community eligibility provision.
26 Promotion shall include, but is not limited to, providing official
27 departmental guidance regarding the options available to schools for
28 implementation, options for maintaining state aid and federal funds
29 pursuant to Title I of the federal Improving America's Schools Act of
30 1994, 20 U.S.C. 6301 et seq., as such act and sections existed on January
31 1, 2016, and other relevant information.

1 Sec. 4. Original sections 79-1003 and 79-2120, Revised Statutes
2 Supplement, 2015, are repealed.