

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1081

FINAL READING

Introduced by Education Committee: Groene, 42, Chairperson; Ebke, 32;
Kolowski, 31; Linehan, 39; Morfeld, 46; Pansing Brooks, 28.

Read first time January 17, 2018

Committee: Education

1 A BILL FOR AN ACT relating to schools; to amend sections 79-262, 79-293,
2 79-2,136, 79-408, 79-529, 79-760.07, 79-870, 79-1007.08, and
3 79-1007.09, Reissue Revised Statutes of Nebraska, sections 79-528,
4 79-760.06, 79-1007.06, 79-1007.07, 79-11,155, 79-2104, 79-2104.02,
5 and 79-2117, Revised Statutes Cumulative Supplement, 2016, and
6 section 79-1003, Revised Statutes Supplement, 2017; to require an
7 annual financial report for learning communities; to provide
8 penalties; to change requirements for reporting student conduct to
9 law enforcement; to clarify residency requirements for part-time
10 enrollment; to change provisions regarding Class IV school district
11 boundaries; to remove certain powers of Class IV school districts;
12 to eliminate certain reporting requirements regarding learning
13 communities; to change a reporting date; to change provisions for
14 priority schools as prescribed; to change provisions related to
15 subpoena authority as prescribed; to eliminate poverty plan
16 requirements; to eliminate limited English proficiency plan
17 requirements; to adopt the Nebraska Reading Improvement Act; to
18 harmonize provisions; to repeal the original sections; and to
19 outright repeal section 79-1014, Reissue Revised Statutes of
20 Nebraska, and section 79-1013, Revised Statutes Cumulative
21 Supplement, 2016.

1 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) On or before January 31 of each year, each learning
2 community coordinating council shall submit to the Commissioner of
3 Education a report described as the annual financial report showing (a)
4 the amount of money received from all sources during the year and the
5 amount of money expended by the learning community during the year, (b)
6 other information as necessary to fulfill the requirements of section
7 79-1241.03, and (c) such other information as the commissioner directs.

8 (2) The coordinating council of each learning community shall cause
9 a complete and comprehensive annual audit to be made of the books,
10 accounts, records, and affairs of the learning community. The audits
11 shall be conducted annually, except that the Auditor of Public Accounts
12 may determine an audit of less frequency to be appropriate, but not less
13 than once in any three-year period. The coordinating council of each
14 learning community may contract with the Auditor of Public Accounts or
15 select a licensed public accountant or certified public accountant or
16 firm of such accountants to conduct the audit and shall be responsible
17 for the cost of the audit pursuant to the contract. Such audit shall be
18 conducted in the same manner as audits of county officers. The original
19 copy of the audit shall be filed in the office of the Auditor of Public
20 Accounts.

21 (3) When any learning community coordinating council fails to submit
22 its annual financial report by January 31, the commissioner shall, after
23 notice to the learning community and an opportunity to be heard, direct
24 that (a) any learning community funds granted pursuant to section 79-2103
25 and (b) core services and technology infrastructure funds granted
26 pursuant to section 79-1241.03 be withheld until such time as the report
27 is received by the State Department of Education. In addition, the
28 commissioner shall direct the county treasurer of each county with
29 territory in such learning community to withhold all levy receipts
30 belonging to the learning community until such time as the commissioner
31 notifies the county treasurer of receipt of such report. The county

1 treasurer shall withhold such money.

2 (4) The State Department of Education may adopt and promulgate rules
3 and regulations to carry out the purposes of this section.

4 Sec. 2. Section 79-262, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 79-262 (1) The school board or board of education shall establish
7 and promulgate rules and standards concerning student conduct which are
8 reasonably necessary to carry out or to prevent interference with
9 carrying out any educational function, if such rules and standards are
10 clear and definite so as to provide clear notice to the student and his
11 or her parent or guardian as to the conduct prescribed, prohibited, or
12 required under the rules and standards. Notwithstanding any other
13 provisions contained in the Student Discipline Act, the school board or
14 board of education may by rule specify a particular action as a sanction
15 for particular conduct. Any such action must be otherwise authorized by
16 section 79-258, 79-265, or 79-267. Any such rule shall be binding on all
17 students, school officials, board members, and hearing examiners.
18 Expulsion may be specified as a sanction for particular conduct only if
19 the school board or board of education finds that the type of conduct for
20 which expulsion is specified has the potential to seriously affect the
21 health, safety, or welfare of the student, other students, staff members,
22 or any other person or to otherwise seriously interfere with the
23 educational process. On or before August 1 of each year, all school
24 boards shall annually review in collaboration with the county attorney of
25 the county in which the principal office of the school district is
26 located the rules and standards concerning student conduct adopted by the
27 school board and the provisions of section 79-267 to define conduct which
28 the principal or designee is required to report to law enforcement under
29 section 79-293.

30 (2) All rules and standards established by school officials, other
31 than the board, applicable to students shall not conflict with rules and

1 standards adopted by the board. The board may change any rule or standard
2 in accordance with policies which it may from time to time adopt.

3 (3) Rules or standards which form the basis for discipline,
4 including the conduct required to be reported to law enforcement, shall
5 be distributed to each student and his or her parent or guardian at the
6 beginning of each school year, or at the time of enrollment if during the
7 school year, and shall be posted in conspicuous places in each school
8 during the school year. Changes in rules and standards shall not take
9 effect until reasonable effort has been made to distribute such changes
10 to each student and his or her parent or guardian.

11 Sec. 3. Section 79-293, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 79-293 (1) The principal of a school or the principal's designee
14 shall notify as soon as possible the appropriate law enforcement
15 authorities, of the county or city in which the school is located, of any
16 act of the student as provided in subsection (1) of section 79-262
17 ~~described in section 79-267~~ which the principal or designee knows or
18 suspects is a violation of the Nebraska Criminal Code.

19 (2) The principal, the principal's designee, or any other school
20 employee reporting an alleged violation of the Nebraska Criminal Code
21 shall not be civilly or criminally liable as a result of any report
22 authorized by this section unless (a) such report was false and the
23 person making such report knew or should have known it was false or (b)
24 the report was made with negligent disregard for the truth or falsity of
25 the report.

26 Sec. 4. Section 79-2,136, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 79-2,136 Each school board shall allow the part-time enrollment of
29 students who are residents of the school district pursuant to subsections
30 (1) and (2) of section 79-215 and who are also enrolled in a private,
31 denominational, or parochial school or in a school which elects pursuant

1 to section 79-1601 not to meet accreditation or approval requirements and
2 shall establish policies and procedures for such part-time enrollment.
3 Such policies and procedures may include provisions permitting the part-
4 time enrollment of such students who are not residents of such school
5 districts to the extent permitted pursuant to section 79-215 and may
6 require part-time students to follow school policies that apply to other
7 students at any time the part-time student is present on school grounds
8 or at a school-sponsored activity or athletic event. Part-time enrollment
9 shall not entitle a student to transportation or transportation
10 reimbursements pursuant to section 79-611. Nothing in this section shall
11 be construed to exempt any student from the compulsory attendance
12 provisions of sections 79-201 to 79-207.

13 Sec. 5. Section 79-408, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 79-408 The territory now or hereafter embraced within each
16 incorporated city of the metropolitan class or city of the primary class
17 in the State of Nebraska that is not in part within the boundaries of a
18 learning community, such adjacent territory as now or hereafter may be
19 included therewith for school purposes, and such territory not adjacent
20 thereto as may have been added thereto by law shall constitute a Class IV
21 school district, except that nothing in this section shall be construed
22 to change the boundaries of any school district that is a member of a
23 learning community. A Class IV school district shall be a body corporate
24 and possess all the usual powers of a corporation for public purposes,
25 may sue and be sued, and may purchase, hold, and sell such personal and
26 real estate and contract such obligations as are authorized by law. ~~The~~
27 ~~powers of a Class IV district include, but are not limited to, the power~~
28 ~~to adopt, administer, and amend from time to time such retirement,~~
29 ~~annuity, insurance, and other benefit plans for its present and future~~
30 ~~employees after their retirement, or any reasonable classification~~
31 ~~thereof, as may be deemed proper by the board of education. The board of~~

1 ~~education shall not establish a retirement system for new employees~~
2 ~~supplemental to the School Employees Retirement System of the State of~~
3 ~~Nebraska.~~

4 The title to all real or personal property owned by such school
5 district shall, upon the organization of the school district, vest
6 immediately in the school district so created. The board of education
7 shall have exclusive control of all property belonging to the school
8 district.

9 ~~In the discretion of the board of education, funds accumulated in~~
10 ~~connection with a retirement plan may be transferred to and administered~~
11 ~~by a trustee or trustees to be selected by the board of education, or if~~
12 ~~the retirement plan is in the form of annuity or insurance contracts,~~
13 ~~such funds, or any part thereof, may be paid to a duly licensed insurance~~
14 ~~carrier or carriers selected by the board of education. Funds accumulated~~
15 ~~in connection with any such retirement plan, and any other funds of the~~
16 ~~school district which are not immediately required for current needs or~~
17 ~~expenses, may be invested and reinvested by the board of education or by~~
18 ~~its authority in securities of a type permissible either for the~~
19 ~~investment of funds of a domestic legal reserve life insurance company or~~
20 ~~for the investment of trust funds, according to the laws of the State of~~
21 ~~Nebraska.~~

22 Sec. 6. Section 79-528, Revised Statutes Cumulative Supplement,
23 2016, is amended to read:

24 79-528 (1)(a) On or before July 20 in all school districts, the
25 superintendent shall file with the State Department of Education a report
26 showing the number of children from five through eighteen years of age
27 belonging to the school district according to the census taken as
28 provided in sections 79-524 and 79-578. ~~On or before August 31, the~~
29 ~~department shall issue to each learning community coordinating council a~~
30 ~~report showing the number of children from five through eighteen years of~~
31 ~~age belonging to the learning community based on the member school~~

1 ~~districts according to the school district reports filed with the~~
2 ~~department.~~

3 (b) Each Class I school district which is part of a Class VI school
4 district offering instruction (i) in grades kindergarten through five
5 shall report children from five through ten years of age, (ii) in grades
6 kindergarten through six shall report children from five through eleven
7 years of age, and (iii) in grades kindergarten through eight shall report
8 children from five through thirteen years of age.

9 (c) Each Class VI school district offering instruction (i) in grades
10 six through twelve shall report children who are eleven through eighteen
11 years of age, (ii) in grades seven through twelve shall report children
12 who are twelve through eighteen years of age, and (iii) in grades nine
13 through twelve children who are fourteen through eighteen years of age.

14 (d) Each Class I district which has affiliated in whole or in part
15 shall report children from five through thirteen years of age.

16 (e) Each Class II, III, IV, or V district shall report children who
17 are fourteen through eighteen years of age residing in Class I districts
18 or portions thereof which have affiliated with such district.

19 (f) The board of any district neglecting to take and report the
20 enumeration shall be liable to the school district for all school money
21 which such district may lose by such neglect.

22 (2) On or before June 30 the superintendent of each school district
23 shall file with the Commissioner of Education a report described as an
24 end-of-the-school-year annual statistical summary showing (a) the number
25 of children attending school during the year under five years of age, (b)
26 the length of time the school has been taught during the year by a
27 qualified teacher, (c) the length of time taught by each substitute
28 teacher, and (d) such other information as the Commissioner of Education
29 directs. ~~On or before July 31, the commissioner shall issue to each~~
30 ~~learning community coordinating council an end-of-the-school-year annual~~
31 ~~statistical summary for the learning community based on the member school~~

1 ~~districts according to the school district reports filed with the~~
2 ~~commissioner.~~

3 (3) ~~(3)(a)~~ On or before November 1 the superintendent of each school
4 district shall submit to the Commissioner of Education a report described
5 as the annual financial report showing (i) the amount of money received
6 from all sources during the year and the amount of money expended by the
7 school district during the year, (ii) the amount of bonded indebtedness,
8 (iii) such other information as shall be necessary to fulfill the
9 requirements of the Tax Equity and Educational Opportunities Support Act
10 and section 79-1114, and (iv) such other information as the Commissioner
11 of Education directs.

12 ~~(b) On or before December 15, the commissioner shall issue to each~~
13 ~~learning community coordinating council an annual financial report for~~
14 ~~the learning community based on the member school districts according to~~
15 ~~the annual financial reports filed with the commissioner, showing (i) the~~
16 ~~aggregate amount of money received from all sources during the year for~~
17 ~~all member school districts and the aggregate amount of money expended by~~
18 ~~member school districts during the year, (ii) the aggregate amount of~~
19 ~~bonded indebtedness for all member school districts, (iii) such other~~
20 ~~aggregate information as shall be necessary to fulfill the requirements~~
21 ~~of the Tax Equity and Educational Opportunities Support Act and section~~
22 ~~79-1114 for all member school districts, and (iv) such other aggregate~~
23 ~~information as the Commissioner of Education directs for all member~~
24 ~~school districts.~~

25 (4)(a) On or before October 15 of each year, the superintendent of
26 each school district shall file with the commissioner the fall school
27 district membership report, which report shall include the number of
28 children from birth through twenty years of age enrolled in the district
29 on October 1 ~~the last Friday in September~~ of a given school year. The
30 report shall enumerate (i) students by grade level, (ii) school district
31 levies and total assessed valuation for the current fiscal year, (iii)

1 students enrolled in the district as option students, resident students
2 enrolled in another district as option students, students enrolled in the
3 district as open enrollment students, and resident students enrolled in
4 another district as open enrollment students, and (iv) such other
5 information as the Commissioner of Education directs.

6 (b) On or before October 15 of each year prior to 2017, each
7 learning community coordinating council shall issue to the department a
8 report which enumerates the learning community levies pursuant to
9 subdivision (2)(b) of section 77-3442 and total assessed valuation for
10 the current fiscal year.

11 ~~(c) On or before November 15 of each year, the department shall~~
12 ~~issue to each learning community coordinating council the fall learning~~
13 ~~community membership report, which report shall include the aggregate~~
14 ~~number of children from birth through twenty years of age enrolled in the~~
15 ~~member school districts on the last Friday in September of a given school~~
16 ~~year for all member school districts. The report shall enumerate (i) the~~
17 ~~aggregate students by grade level for all member school districts, (ii)~~
18 ~~school district levies and total assessed valuation for the current~~
19 ~~fiscal year, (iii) students enrolled in the district as option students,~~
20 ~~resident students enrolled in another district as option students,~~
21 ~~students enrolled in the district as open enrollment students, and~~
22 ~~resident students enrolled in another district as open enrollment~~
23 ~~students, and (iv) such other information as the Commissioner of~~
24 ~~Education directs for all member school districts.~~

25 (c) ~~(d)~~ When any school district fails to submit its fall membership
26 report by November 1, the commissioner shall, after notice to the
27 district and an opportunity to be heard, direct that any state aid
28 granted pursuant to the Tax Equity and Educational Opportunities Support
29 Act be withheld until such time as the report is received by the
30 department. In addition, the commissioner shall direct the county
31 treasurer to withhold all school money belonging to the school district

1 until such time as the commissioner notifies the county treasurer of
2 receipt of such report. The county treasurer shall withhold such money.

3 Sec. 7. Section 79-529, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 79-529 (1) When the superintendent of a school district fails to
6 file the annual financial report on or before the date required by
7 subsection (3) ~~subdivision (3)(a)~~ of section 79-528, the State Department
8 of Education shall use the annual financial report from the immediately
9 preceding fiscal year for purposes of the Tax Equity and Educational
10 Opportunities Support Act.

11 (2) For purposes of the final calculation of state aid pursuant to
12 section 79-1065, the annual financial report for the most recently
13 available complete data year shall be used.

14 Sec. 8. Section 79-760.06, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 79-760.06 (1) On or before August 1, 2012, the State Board of
17 Education shall establish an accountability system to be used to measure
18 the performance of individual public schools and school districts. The
19 accountability system shall combine multiple indicators, including, but
20 not limited to, graduation rates, student growth and student improvement
21 on the assessment instruments provided in section 79-760.03, and other
22 indicators of the performance of public schools and school districts as
23 established by the state board.

24 (2) Beginning with the reporting of data from school year 2014-15,
25 the indicators selected by the state board for the accountability system
26 shall be combined into a school performance score and district
27 performance score. The state board shall establish levels of performance
28 based upon school performance scores and district performance scores in
29 order to classify the performance of public schools and school districts
30 beginning with the reporting of data from school year 2014-15. The state
31 board shall designate priority schools based on such classification.

1 Schools designated as priority schools shall be at the lowest performance
2 level at the time of the initial priority school designation. Schools
3 designated as priority schools shall remain priority schools until such
4 designation is removed by the state board. No less ~~more~~ than three
5 schools may have a priority school designation at one time. Schools
6 designated as priority schools shall be subject to the requirements of
7 section 79-760.07. ~~Progress plans for the initial schools designated as~~
8 ~~priority schools shall be approved by the state board no later than~~
9 ~~August 15, 2016.~~ The State Department of Education shall annually report
10 the performance level of individual public schools and school districts
11 as part of the statewide assessment and reporting system.

12 Sec. 9. Section 79-760.07, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 79-760.07 (1) For each school designated as a priority school, the
15 Commissioner of Education shall appoint an intervention team. The
16 intervention team shall assist the school district with diagnosing issues
17 that negatively affect student achievement in the priority school,
18 designing and implementing strategies to address such issues through the
19 progress plan, and developing measurable indicators of progress.

20 (2) The intervention team shall be composed of up to five people
21 with the education and experience to carry out the responsibilities of
22 the team. Any member of the intervention team may receive pay for work
23 performed in conjunction with his or her duties as a member of such team.
24 Such pay shall be determined and provided (a) by the State Department of
25 Education for any member of the intervention team who is not an employee
26 of the school district containing the priority school for which such
27 intervention team is appointed or (b) by the school district containing
28 the priority school for which the intervention team is appointed for any
29 member of the intervention team who is an employee of such school
30 district. Any member of the intervention team who is eligible to receive
31 pay from the department pursuant to subdivision (a) of this subsection

1 shall also be eligible for reimbursement of actual and necessary expenses
2 incurred in carrying out his or her duties as a member of such team as
3 provided in sections 81-1174 to 81-1177. Reimbursement of actual and
4 necessary expenses for any member of the intervention team who is an
5 employee of the school district containing the priority school for which
6 the intervention team is appointed shall be provided in accordance with
7 the policies and procedures of such school district.

8 (3) The intervention team, in collaboration with the priority school
9 staff and the administration and school board of the school district with
10 control of the priority school, shall develop a progress plan for
11 approval by the State Board of Education. Any progress plan shall include
12 specific actions required by the school and the district in order to
13 remove its classification as a priority school, including any required
14 level of progress as indicated by the measurable indicators.

15 (4) Compliance with progress plans shall be a requirement to
16 maintain accreditation for any school district that contains a priority
17 school. The state board shall annually review any progress plans and
18 determine whether any modifications are needed. If a school has been
19 designated as a priority school for the third ~~fifth~~ consecutive school
20 year, the state board shall reevaluate the progress plan to determine if
21 (a) a significant revision of the progress plan is necessary, (b) an
22 entirely new progress plan is developed, or (c) an alternative
23 administrative structure is warranted.

24 (5) The school board of a school district containing a priority
25 school as designated pursuant to section 79-760.06 shall provide the
26 intervention team with full access to the priority school, priority
27 school staff, the school district, school district staff, academic
28 information, financial information, and any other requested information.

29 (6) The Commissioner of Education shall annually report to the
30 Governor and electronically to the Clerk of the Legislature and the
31 chairperson of the Education Committee of the Legislature on all schools

1 designated as priority schools. The report shall include the name of the
2 school, the grades included in the priority school designation, the name
3 of the school district, the years for which the school was designated a
4 priority school, a summary of the progress plan, and the level of
5 progress as indicated by the measurable indicators.

6 Sec. 10. Section 79-870, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 79-870 In the performance of their functions under sections 79-859
9 to 79-871, ~~the commissioner,~~ the commission~~r,~~ and the board may subpoena
10 witnesses and place them under oath. The commissioner may issue writs of
11 subpoena, including subpoena duces tecum, requiring the attendance of
12 witnesses and the production of books, records, and documents, and place
13 witnesses under oath to take sworn testimony as part of any
14 investigation. The board may modify or quash any subpoena issued by the
15 commissioner.

16 Sec. 11. Section 79-1003, Revised Statutes Supplement, 2017, is
17 amended to read:

18 79-1003 For purposes of the Tax Equity and Educational Opportunities
19 Support Act:

20 (1) Adjusted general fund operating expenditures means (a) for
21 school fiscal years 2013-14 through 2015-16, the difference of the
22 general fund operating expenditures as calculated pursuant to subdivision
23 (23) of this section increased by the cost growth factor calculated
24 pursuant to section 79-1007.10, minus the transportation allowance,
25 special receipts allowance, poverty allowance, limited English
26 proficiency allowance, distance education and telecommunications
27 allowance, elementary site allowance, summer school allowance,
28 instructional time allowance, teacher education allowance, and focus
29 school and program allowance, (b) for school fiscal years 2016-17 through
30 2018-19, the difference of the general fund operating expenditures as
31 calculated pursuant to subdivision (23) of this section increased by the

1 cost growth factor calculated pursuant to section 79-1007.10, minus the
2 transportation allowance, special receipts allowance, poverty allowance,
3 limited English proficiency allowance, distance education and
4 telecommunications allowance, elementary site allowance, summer school
5 allowance, and focus school and program allowance, and (c) for school
6 fiscal year 2019-20 and each school fiscal year thereafter, the
7 difference of the general fund operating expenditures as calculated
8 pursuant to subdivision (23) of this section increased by the cost growth
9 factor calculated pursuant to section 79-1007.10, minus the
10 transportation allowance, special receipts allowance, poverty allowance,
11 limited English proficiency allowance, distance education and
12 telecommunications allowance, elementary site allowance, summer school
13 allowance, community achievement plan allowance, and focus school and
14 program allowance;

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

25 (3) Allocated income tax funds means the amount of assistance paid
26 to a local system pursuant to section 79-1005.01 as adjusted, for school
27 fiscal years prior to school fiscal year 2017-18, by the minimum levy
28 adjustment pursuant to section 79-1008.02;

29 (4) Average daily membership means the average daily membership for
30 grades kindergarten through twelve attributable to the local system, as
31 provided in each district's annual statistical summary, and includes the

1 proportionate share of students enrolled in a public school instructional
2 program on less than a full-time basis;

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

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

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

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

15 (9) Converted contract means an expired contract that was in effect
16 for at least fifteen school years beginning prior to school year 2012-13
17 for the education of students in a nonresident district in exchange for
18 tuition from the resident district when the expiration of such contract
19 results in the nonresident district educating students, who would have
20 been covered by the contract if the contract were still in effect, as
21 option students pursuant to the enrollment option program established in
22 section 79-234;

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

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

30 (12) District means any Class I, II, III, IV, V, or VI school
31 district or unified system as defined in section 79-4,108;

1 (13) Ensuing school fiscal year means the school fiscal year
2 following the current school fiscal year;

3 (14) Equalization aid means the amount of assistance calculated to
4 be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23,
5 79-1007.25, 79-1008.01 to 79-1022, and 79-1022.02;

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

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

12 (17) Formula students means:

13 (a) For state aid certified pursuant to section 79-1022, the sum of
14 the product of fall membership from the school fiscal year immediately
15 preceding the school fiscal year in which the aid is to be paid
16 multiplied by the average ratio of average daily membership to fall
17 membership for the second school fiscal year immediately preceding the
18 school fiscal year in which the aid is to be paid and the prior two
19 school fiscal years plus sixty percent of the qualified early childhood
20 education fall membership plus tuitioned students from the school fiscal
21 year immediately preceding the school fiscal year in which aid is to be
22 paid minus the product of the number of students enrolled in kindergarten
23 that is not full-day kindergarten from the fall membership multiplied by
24 0.5; and

25 (b) For the final calculation of state aid pursuant to section
26 79-1065, the sum of average daily membership plus sixty percent of the
27 qualified early childhood education average daily membership plus
28 tuitioned students minus the product of the number of students enrolled
29 in kindergarten that is not full-day kindergarten from the average daily
30 membership multiplied by 0.5 from the school fiscal year immediately
31 preceding the school fiscal year in which aid was paid;

1 (18) Free lunch and free milk calculated students means, using the
2 most recent data available on November 1 of the school fiscal year
3 immediately preceding the school fiscal year in which aid is to be paid,
4 (a) for schools that did not provide free meals to all students pursuant
5 to the community eligibility provision, students who individually
6 qualified for free lunches or free milk pursuant to the federal Richard
7 B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the
8 federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts
9 and sections existed on January 1, 2015, and rules and regulations
10 adopted thereunder, plus (b) for schools that provided free meals to all
11 students pursuant to the community eligibility provision, (i) for school
12 fiscal year 2016-17, the product of the students who attended such school
13 multiplied by the identified student percentage calculated pursuant to
14 such federal provision or (ii) for school fiscal year 2017-18 and each
15 school fiscal year thereafter, the greater of the number of students in
16 such school who individually qualified for free lunch or free milk using
17 the most recent school fiscal year for which the school did not provide
18 free meals to all students pursuant to the community eligibility
19 provision or one hundred ten percent of the product of the students who
20 qualified for free meals at such school pursuant to the community
21 eligibility provision multiplied by the identified student percentage
22 calculated pursuant to such federal provision, except that the free lunch
23 and free milk students calculated for any school pursuant to subdivision
24 (18)(b)(ii) of this section shall not exceed one hundred percent of the
25 students qualified for free meals at such school pursuant to the
26 community eligibility provision;

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

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

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

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

12 (23) General fund operating expenditures means for state aid
13 calculated for school fiscal years 2012-13 and each school fiscal year
14 thereafter, as reported on the annual financial report for the second
15 school fiscal year immediately preceding the school fiscal year in which
16 aid is to be paid, the total general fund expenditures minus (a) the
17 amount of all receipts to the general fund, to the extent that such
18 receipts are not included in local system formula resources, from early
19 childhood education tuition, summer school tuition, educational entities
20 as defined in section 79-1201.01 for providing distance education courses
21 through the Educational Service Unit Coordinating Council to such
22 educational entities, private foundations, individuals, associations,
23 charitable organizations, the textbook loan program authorized by section
24 79-734, federal impact aid, and levy override elections pursuant to
25 section 77-3444, (b) the amount of expenditures for categorical funds,
26 tuition paid, transportation fees paid to other districts, adult
27 education, community services, redemption of the principal portion of
28 general fund debt service, retirement incentive plans authorized by
29 section 79-855, and staff development assistance authorized by section
30 79-856, (c) the amount of any transfers from the general fund to any bond
31 fund and transfers from other funds into the general fund, (d) any legal

1 expenses in excess of fifteen-hundredths of one percent of the formula
2 need for the school fiscal year in which the expenses occurred, (e)(i)
3 for state aid calculated for school fiscal years prior to school fiscal
4 year 2018-19, expenditures to pay for sums agreed to be paid by a school
5 district to certificated employees in exchange for a voluntary
6 termination occurring prior to July 1, 2009, occurring on or after the
7 last day of the 2010-11 school year and prior to the first day of the
8 2013-14 school year, or, to the extent that a district has demonstrated
9 to the State Board of Education pursuant to section 79-1028.01 that the
10 agreement will result in a net savings in salary and benefit costs to the
11 school district over a five-year period, occurring on or after the first
12 day of the 2013-14 school year or (ii) for state aid calculated for
13 school fiscal year 2018-19 and each school fiscal year thereafter,
14 expenditures to pay for incentives agreed to be paid by a school district
15 to certificated employees in exchange for a voluntary termination of
16 employment for which the State Board of Education approved an exclusion
17 pursuant to subdivision ~~subdivisions~~ (1)(h), (i), (j), or (k) of section
18 79-1028.01, (f)(i) expenditures to pay for employer contributions
19 pursuant to subsection (2) of section 79-958 to the School Employees
20 Retirement System of the State of Nebraska to the extent that such
21 expenditures exceed the employer contributions under such subsection that
22 would have been made at a contribution rate of seven and thirty-five
23 hundredths percent or (ii) expenditures to pay for school district
24 contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to
25 the retirement system established pursuant to the Class V School
26 Employees Retirement Act to the extent that such expenditures exceed the
27 school district contributions under such subdivision that would have been
28 made at a contribution rate of seven and thirty-seven hundredths percent,
29 and (g) any amounts paid by the district for lobbyist fees and expenses
30 reported to the Clerk of the Legislature pursuant to section 49-1483.

31 For purposes of this subdivision (23) of this section, receipts from

1 levy override elections shall equal ninety-nine percent of the difference
2 of the total general fund levy minus a levy of one dollar and five cents
3 per one hundred dollars of taxable valuation multiplied by the assessed
4 valuation for school districts that have voted pursuant to section
5 77-3444 to override the maximum levy provided pursuant to section
6 77-3442;

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

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

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

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

23 (28) Local system means a learning community for purposes of
24 calculation of state aid for each school fiscal year prior to school
25 fiscal year 2017-18, a unified system, a Class VI district and the
26 associated Class I districts, or a Class II, III, IV, or V district and
27 any affiliated Class I districts or portions of Class I districts. The
28 membership, expenditures, and resources of Class I districts that are
29 affiliated with multiple high school districts will be attributed to
30 local systems based on the percent of the Class I valuation that is
31 affiliated with each high school district;

1 (29) Low-income child means (a) for school fiscal years prior to
2 2016-17, a child under nineteen years of age living in a household having
3 an annual adjusted gross income for the second calendar year preceding
4 the beginning of the school fiscal year for which aid is being calculated
5 equal to or less than the maximum household income that would allow a
6 student from a family of four people to be a free lunch and free milk
7 student during the school fiscal year immediately preceding the school
8 fiscal year for which aid is being calculated and (b) for school fiscal
9 year 2016-17 and each school fiscal year thereafter, a child under
10 nineteen years of age living in a household having an annual adjusted
11 gross income for the second calendar year preceding the beginning of the
12 school fiscal year for which aid is being calculated equal to or less
13 than the maximum household income pursuant to sections 9(b)(1) and 17(c)
14 (4) of the Richard B. Russell National School Lunch Act, 42 U.S.C.
15 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6)
16 and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6)
17 and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections
18 existed on January 1, 2015, for a household of that size that would have
19 allowed the child to meet the income qualifications for free meals during
20 the school fiscal year immediately preceding the school fiscal year for
21 which aid is being calculated;

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

26 (31) Most recently available complete data year means the most
27 recent single school fiscal year for which the annual financial report,
28 fall school district membership report, annual statistical summary,
29 Nebraska income tax liability by school district for the calendar year in
30 which the majority of the school fiscal year falls, and adjusted
31 valuation data are available;

1 (32) Poverty students means (a) for school fiscal years prior to
2 2016-17, the number of low-income students or the number of students who
3 are free lunch and free milk students in a district plus the difference
4 of the number of low-income students or the number of students who are
5 free lunch and free milk students in a district, whichever is greater,
6 minus the average number of poverty students for such district, prior to
7 such addition, for the three immediately preceding school fiscal years if
8 such difference is greater than zero and (b) for school fiscal year
9 2016-17 and each school fiscal year thereafter, the unadjusted poverty
10 students plus the difference of such unadjusted poverty students minus
11 the average number of poverty students for such district, prior to such
12 addition, for the three immediately preceding school fiscal years if such
13 difference is greater than zero;

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

28 (34) Qualified early childhood education fall membership means the
29 product of membership on October 1 of the last Friday in September 2006
30 ~~and each school year thereafter~~ of students who will be eligible to
31 attend kindergarten the following school year and are enrolled in an

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (43) State support means all funds provided to districts by the
19 State of Nebraska for the general fund support of elementary and
20 secondary education;

21 (44) Statewide average basic funding per formula student means the
22 statewide total basic funding for all districts divided by the statewide
23 total formula students for all districts;

24 (45) Statewide average general fund operating expenditures per
25 formula student means the statewide total general fund operating
26 expenditures for all districts divided by the statewide total formula
27 students for all districts;

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

29 (47) Temporary aid adjustment factor means (a) for school fiscal
30 years before school fiscal year 2007-08, one and one-fourth percent of
31 the sum of the local system's transportation allowance, the local

1 system's special receipts allowance, and the product of the local
2 system's adjusted formula students multiplied by the average formula cost
3 per student in the local system's cost grouping and (b) for school fiscal
4 year 2007-08, one and one-fourth percent of the sum of the local system's
5 transportation allowance, special receipts allowance, and distance
6 education and telecommunications allowance and the product of the local
7 system's adjusted formula students multiplied by the average formula cost
8 per student in the local system's cost grouping;

9 (48) Tuition receipts from converted contracts means tuition
10 receipts received by a district from another district in the most
11 recently available complete data year pursuant to a converted contract
12 prior to the expiration of the contract;

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

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

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

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

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

1 Sec. 12. Section 79-1007.06, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 79-1007.06 (1) For ~~school fiscal year 2008-09 and~~ each school fiscal
4 year ~~thereafter~~, the department shall determine the poverty allowance for
5 each school district that meets the requirements of this section and
6 section 79-1007.07. Each school district shall designate a maximum
7 poverty allowance on a form prescribed by the department on or before
8 October 15 of the school fiscal year immediately preceding the school
9 fiscal year for which aid is being calculated. The school district may
10 decline to participate in the poverty allowance by providing the
11 department with a maximum poverty allowance of zero dollars on such form
12 on or before October 15 of the school fiscal year immediately preceding
13 the school fiscal year for which aid is being calculated. ~~Each school~~
14 ~~district designating a maximum poverty allowance greater than zero~~
15 ~~dollars shall submit a poverty plan pursuant to section 79-1013.~~

16 (2) The poverty allowance for each school district shall equal the
17 lesser of:

18 (a) The maximum amount designated pursuant to subsection (1) of this
19 section by the school district in the local system, if such school
20 district designated a maximum amount, for the school fiscal year for
21 which aid is being calculated; or

22 (b) The sum of:

23 (i) The statewide average general fund operating expenditures per
24 formula student multiplied by 0.0375 then multiplied by the poverty
25 students comprising more than five percent and not more than ten percent
26 of the formula students in the school district; plus

27 (ii) The statewide average general fund operating expenditures per
28 formula student multiplied by 0.0750 then multiplied by the poverty
29 students comprising more than ten percent and not more than fifteen
30 percent of the formula students in the school district; plus

31 (iii) The statewide average general fund operating expenditures per

1 formula student multiplied by 0.1125 then multiplied by the poverty
2 students comprising more than fifteen percent and not more than twenty
3 percent of the formula students in the school district; plus

4 (iv) The statewide average general fund operating expenditures per
5 formula student multiplied by 0.1500 then multiplied by the poverty
6 students comprising more than twenty percent and not more than twenty-
7 five percent of the formula students in the school district; plus

8 (v) The statewide average general fund operating expenditures per
9 formula student multiplied by 0.1875 then multiplied by the poverty
10 students comprising more than twenty-five percent and not more than
11 thirty percent of the formula students in the school district; plus

12 (vi) The statewide average general fund operating expenditures per
13 formula student multiplied by 0.2250 then multiplied by the poverty
14 students comprising more than thirty percent of the formula students in
15 the school district.

16 Sec. 13. Section 79-1007.07, Revised Statutes Cumulative Supplement,
17 2016, is amended to read:

18 79-1007.07 (1)(a) The annual financial report required pursuant to
19 section 79-528 shall include:

20 (i) The amount of the poverty allowance used in the certification of
21 state aid pursuant to section 79-1022 for such school fiscal year;

22 (ii) The amount of federal funds received based on poverty as
23 defined by the federal program providing the funds; and

24 (iii) The expenditures and sources of funding for each program
25 related to poverty ~~with a narrative description of the program, the~~
26 ~~method used to allocate money to the program and within the program, and~~
27 ~~the program's relationship to the poverty plan submitted pursuant to~~
28 ~~section 79-1013 for such school fiscal year; (iv) The expenditures and~~
29 ~~sources of funding for support costs directly attributable to~~
30 ~~implementing the district's poverty plan; and~~

31 ~~(v) An explanation of how any required elements of the poverty plan~~

1 ~~for such school fiscal year were met.~~

2 (b) The department shall set up accounting codes for the receipts
3 and expenditures required to be reported on the annual financial report
4 pursuant to this subsection.

5 (2) The department shall determine the poverty allowance
6 expenditures using the reported expenditures on the annual financial
7 report for the most recently available complete data year that would
8 include in the poverty allowance expenditures only those expenditures
9 that are not included in other allowances, that were used to specifically
10 address issues related to the education of students living in poverty ~~or~~
11 ~~to the implementation of the poverty plan,~~ that do not replace
12 expenditures that would have occurred if the students involved in the
13 program did not live in poverty, and that are paid for with
14 noncategorical funds generated by state or local taxes ~~or funds~~
15 ~~distributed through the Tax Equity and Educational Opportunities Support~~
16 ~~Act pursuant to the federal American Recovery and Reinvestment Act of~~
17 ~~2009 or the federal Education Jobs Fund created pursuant to Public Law~~
18 ~~111-226.~~ The department shall establish a procedure to allow school
19 districts to receive preapproval for categories of expenditures that
20 could be included in poverty allowance expenditures.

21 (3) If the poverty allowance expenditures do not equal 117.65
22 percent or more of the poverty allowance for the most recently available
23 complete data year, the department shall calculate a poverty allowance
24 correction. The poverty allowance correction shall equal the poverty
25 allowance minus eighty-five percent of the poverty allowance
26 expenditures. ~~For aid calculated for school fiscal years prior to school~~
27 ~~fiscal year 2016-17, if the poverty allowance expenditures do not equal~~
28 ~~fifty percent or more of the allowance for such school fiscal year, the~~
29 ~~school district shall also be disqualified from receiving a poverty~~
30 ~~allowance for the school fiscal year for which aid is being calculated.~~

31 (4)(a)(i) ~~For aid calculated for school fiscal years prior to school~~

1 ~~fiscal year 2016-17, if the department determines that the school~~
2 ~~district did not meet the required elements of the poverty plan for the~~
3 ~~most recently available complete data year, the department shall~~
4 ~~calculate a poverty allowance correction equal to fifty percent of the~~
5 ~~poverty allowance for such school fiscal year and the school district~~
6 ~~shall also be disqualified from receiving a poverty allowance for the~~
7 ~~school fiscal year for which aid is being calculated.~~

8 ~~(ii) For aid calculated for school fiscal year 2016-17 and each~~
9 ~~school fiscal year thereafter, if the department determines that the~~
10 ~~school district did not meet the required elements of the poverty plan~~
11 ~~for the most recently available complete data year, the department shall~~
12 ~~calculate a poverty allowance correction equal to five percent of the~~
13 ~~poverty allowance for such school fiscal year.~~

14 ~~(b) Any poverty allowance correction calculated pursuant to this~~
15 ~~subsection shall be added to any poverty allowance correction calculated~~
16 ~~pursuant to subsection (3) of this section to arrive at the total poverty~~
17 ~~allowance correction.~~

18 ~~(4) (5) The department may request additional information from any~~
19 ~~school district to assist with calculations and determinations pursuant~~
20 ~~to this section. If the school district does not provide information upon~~
21 ~~the request of the department pursuant to this section, the school~~
22 ~~district shall be disqualified from receiving a poverty allowance for the~~
23 ~~school fiscal year for which aid is being calculated.~~

24 ~~(6) The department shall provide electronically an annual report to~~
25 ~~the Legislature containing a general description of the expenditures and~~
26 ~~funding sources for programs related to poverty statewide and specific~~
27 ~~descriptions of the expenditures and funding sources for programs related~~
28 ~~to poverty for each school district.~~

29 ~~(7) The state board shall establish a procedure for appeal of~~
30 ~~decisions of the department to the state board for a final determination.~~

31 Sec. 14. Section 79-1007.08, Reissue Revised Statutes of Nebraska,

1 is amended to read:

2 79-1007.08 (1) For ~~school fiscal year 2008-09 and~~ each school fiscal
3 year ~~thereafter~~, the department shall determine the limited English
4 proficiency allowance for each school district that meets the
5 requirements of this section ~~and has not been disqualified pursuant to~~
6 ~~section 79-1007.09~~. Each school district shall designate a maximum
7 limited English proficiency allowance on or before October 15 of the
8 school fiscal year immediately preceding the school fiscal year for which
9 aid is being calculated. The school district may decline to participate
10 in the limited English proficiency allowance by providing the department
11 with a maximum limited English proficiency allowance of zero dollars on
12 such form on or before October 15 of the school fiscal year immediately
13 preceding the school fiscal year for which aid is being calculated. ~~Each~~
14 ~~school district designating a maximum limited English proficiency~~
15 ~~allowance greater than zero dollars shall submit a limited English~~
16 ~~proficiency plan pursuant to section 79-1014.~~

17 (2) The limited English proficiency allowance for each school
18 district that has not been disqualified pursuant to section 79-1007.09
19 shall equal the lesser of:

20 (a) The amount designated pursuant to subsection (1) of this section
21 by the school district, if such school district designated a maximum
22 amount, for the school fiscal year for which aid is being calculated; or

23 (b) The statewide average general fund operating expenditures per
24 formula student multiplied by 0.25 then multiplied by:

25 (i) The number of students in the school district who are limited
26 English proficient as defined under 20 U.S.C. 7801, as such section
27 existed on January 1, 2006, if such number is greater than or equal to
28 twelve;

29 (ii) Twelve, if the number of students in the school district who
30 are limited English proficient as defined under 20 U.S.C. 7801, as such
31 section existed on January 1, 2006, is greater than or equal to one and

1 less than twelve; or

2 (iii) Zero, if the number of students in the school district who are
3 limited English proficient as defined under 20 U.S.C. 7801, as such
4 section existed on January 1, 2006, is less than one.

5 Sec. 15. Section 79-1007.09, Reissue Revised Statutes of Nebraska,
6 is amended to read:

7 79-1007.09 (1)(a) The annual financial report required pursuant to
8 section 79-528 shall include:

9 (i) The amount of the limited English proficiency allowance used in
10 the certification of state aid pursuant to section 79-1022 for such
11 school fiscal year;

12 (ii) The amount of federal funds received based on students who are
13 limited English proficient as defined by the federal program providing
14 the funds; and

15 (iii) The expenditures and sources of funding for each program
16 related to limited English proficiency ~~with a narrative description of~~
17 ~~the program~~, the method used to allocate money to the program and within
18 the program, and the ~~program's relationship to the limited English~~
19 ~~proficiency plan submitted pursuant to section 79-1014 for such school~~
20 ~~fiscal year;~~ (iv) The expenditures and sources of funding for support
21 costs directly attributable to ~~implementing the district's limited~~
22 ~~English proficiency plan;~~ and

23 ~~(v) An explanation of how any required elements of the limited~~
24 ~~English proficiency plan for such school fiscal year were met.~~

25 (b) The department shall set up accounting codes for the receipts
26 and expenditures required to be reported on the annual financial report
27 pursuant to this subsection.

28 (2) The department shall determine the limited English proficiency
29 allowance expenditures using the reported expenditures on the annual
30 financial report for the most recently available complete data year that
31 would only include in the limited English proficiency allowance

1 expenditures those expenditures that are not included in other
2 allowances, that were used to specifically address issues related to the
3 education of students with limited English proficiency ~~or to the~~
4 ~~implementation of the limited English proficiency plan~~, that do not
5 replace expenditures that would have occurred if the students involved in
6 the program did not have limited English proficiency, and that are paid
7 for with noncategorical funds generated by state or local taxes ~~or funds~~
8 ~~distributed through the Tax Equity and Educational Opportunities Support~~
9 ~~Act pursuant to the federal American Recovery and Reinvestment Act of~~
10 ~~2009 or the federal Education Jobs Fund created pursuant to Public Law~~
11 ~~111-226. The department shall establish a procedure to allow school~~
12 ~~districts to receive preapproval for categories of expenditures that~~
13 ~~could be included in limited English proficiency allowance expenditures.~~

14 (3) If the limited English proficiency allowance expenditures do not
15 equal 117.65 percent or more of the limited English proficiency allowance
16 for the most recently available complete data year, the department shall
17 calculate a limited English proficiency allowance correction. The limited
18 English proficiency allowance correction shall equal the limited English
19 proficiency allowance minus eighty-five percent of the limited English
20 proficiency allowance expenditures. If the limited English proficiency
21 allowance expenditures do not equal fifty percent or more of the
22 allowance for such school fiscal year, the school district shall also be
23 disqualified from receiving a limited English proficiency allowance for
24 the school fiscal year for which aid is being calculated.

25 ~~(4) If the department determines that the school district did not~~
26 ~~meet the required elements of the limited English proficiency plan for~~
27 ~~the most recently available complete data year, the department shall~~
28 ~~calculate a limited English proficiency allowance correction equal to~~
29 ~~fifty percent of the limited English proficiency allowance for such~~
30 ~~school fiscal year and the school district shall also be disqualified~~
31 ~~from receiving a limited English proficiency allowance for the school~~

~~1 fiscal year for which aid is being calculated. Any limited English
2 proficiency allowance correction calculated pursuant to this subsection
3 shall be added to any limited English proficiency allowance correction
4 calculated pursuant to subsection (3) of this section to arrive at the
5 total limited English proficiency allowance correction.~~

6 (4) ~~(5)~~ The department may request additional information from any
7 school district to assist with calculations and determinations pursuant
8 to this section. If the school district does not provide information upon
9 the request of the department pursuant to this section, the school
10 district shall be disqualified from receiving a limited English
11 proficiency allowance for the school fiscal year for which aid is being
12 calculated.

13 ~~(6) The department shall annually provide the Legislature with a
14 report containing a general description of the expenditures and funding
15 sources for programs related to limited English proficiency statewide and
16 specific descriptions of the expenditures and funding sources for
17 programs related to limited English proficiency for each school district.~~

18 ~~(7) The state board shall establish a procedure for appeal of
19 decisions of the department to the state board for a final determination.~~

20 Sec. 16. Section 79-11,155, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 79-11,155 The Commissioner of Education shall appoint a student
23 achievement coordinator, subject to confirmation by a majority vote of
24 the members of the State Board of Education. The coordinator shall have a
25 background and training in addressing the unique educational needs of
26 low-achieving students, including students in poverty, limited English
27 proficient students, and highly mobile students.

28 The coordinator shall evaluate and coordinate existing resources for
29 effective programs to increase achievement for such students across the
30 state and shall review poverty plans submitted to the State Department of
31 Education pursuant to section 79-1013 and limited English proficiency

1 ~~plans submitted to the department pursuant to section 79-1014 to~~
2 ~~ascertain successful practices being used by school districts in Nebraska~~
3 ~~and to assist school districts in improving their poverty and limited~~
4 ~~English proficiency plans, including the evaluation components. The~~
5 ~~coordinator need not review the poverty and limited English proficiency~~
6 ~~plans of each school district on an annual basis but shall develop a~~
7 ~~review schedule which assures that plans are reviewed periodically.~~

8 The coordinator or other department staff designated by the
9 Commissioner of Education shall also consult with learning communities,
10 educational service units, and school districts on the development,
11 implementation, and evaluation of community achievement plans. In
12 addition, the coordinator or other department staff designated by the
13 commissioner shall conduct an initial review of submitted community
14 achievement plans and return the plans with any suggestions or comments
15 prior to the final submission of the plan for approval by the State Board
16 of Education.

17 Sec. 17. Section 79-2104, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 79-2104 A learning community coordinating council shall have the
20 authority to:

21 (1) For fiscal years prior to fiscal year 2017-18, levy a common
22 levy for the general funds of member school districts pursuant to
23 sections 77-3442 and 79-1073;

24 (2) Levy for elementary learning center facility leases, for
25 remodeling of leased elementary learning center facilities, and for up to
26 fifty percent of the estimated cost for focus school or program capital
27 projects approved by the learning community coordinating council pursuant
28 to subdivision (2)(f) of section 77-3442 and section 79-2111;

29 (3) Levy for early childhood education programs for children in
30 poverty, for elementary learning center employees, for contracts with
31 other entities or individuals who are not employees of the learning

1 community for elementary learning center programs and services, and for
2 pilot projects pursuant to subdivision (2)(g) of section 77-3442, except
3 that not more than ten percent of such levy may be used for elementary
4 learning center employees;

5 (4) Develop, submit, administer, and evaluate community achievement
6 plans in collaboration with the advisory committee, educational service
7 units serving member school districts, member school districts, and the
8 student achievement coordinator or other department staff designated by
9 the Commissioner of Education;

10 (5) Collect, analyze, and report data and information, including,
11 but not limited to, information provided by a school district pursuant to
12 subsection (5) of section 79-201;

13 (6) Approve focus schools and focus programs to be operated by
14 member school districts;

15 (7) Adopt, approve, and implement a diversity plan pursuant to
16 sections 79-2110 and 79-2118;

17 (8) Through school year 2016-17, administer the open enrollment
18 provisions in section 79-2110 for the learning community as part of a
19 diversity plan developed by the council to provide educational
20 opportunities which will result in increased diversity in schools across
21 the learning community;

22 (9) Annually conduct school fairs to provide students and parents
23 the opportunity to explore the educational opportunities available at
24 each school in the learning community and develop other methods for
25 encouraging access to such information and promotional materials;

26 (10) Develop procedures for determining best practices for
27 addressing student achievement barriers and for disseminating such
28 practices within the learning community and to other school districts;

29 (11) Establish and administer elementary learning centers through
30 achievement subcouncils pursuant to sections 79-2112 to 79-2114;

31 (12) Administer the learning community funds distributed to the

1 learning community pursuant to section 79-2111;

2 ~~(13) Approve or disapprove poverty plans and limited English~~
3 ~~proficiency plans for member school districts through achievement~~
4 ~~subcouncils established under section 79-2117;~~

5 (13) ~~(14)~~ Establish a procedure for receiving community input and
6 complaints regarding the learning community;

7 (14) ~~(15)~~ Establish a procedure to assist parents, citizens, and
8 member school districts in accessing an approved center pursuant to the
9 Dispute Resolution Act to resolve disputes involving member school
10 districts or the learning community. Such procedure may include payment
11 by the learning community for some mediation services;

12 (15) ~~(16)~~ Establish and administer pilot projects related to
13 enhancing the academic achievement of elementary students, particularly
14 students who face challenges in the educational environment due to
15 factors such as poverty, limited English skills, and mobility;

16 (16) ~~(17)~~ Provide funding to public or private entities engaged in
17 the juvenile justice system providing pre-filing and diversion programming
18 designed to reduce excessive absenteeism and unnecessary involvement with
19 the juvenile justice system; and

20 (17) ~~(18)~~ Hold public hearings at its discretion in response to
21 issues raised by residents regarding the learning community, a member
22 school district, and academic achievement.

23 Sec. 18. Section 79-2104.02, Revised Statutes Cumulative Supplement,
24 2016, is amended to read:

25 79-2104.02 Each learning community coordinating council shall use
26 any funds received pursuant to section 79-1241.03 for evaluation of
27 programs related to the community achievement plan developed with the
28 assistance of the student achievement coordinator or other department
29 staff designated by the Commissioner of Education and evaluation and
30 research regarding the progress of the learning community pursuant to
31 plans developed by the learning community coordinating council with

1 assistance from the Educational Service Unit Coordinating Council and
2 adjusted on an ongoing basis. ~~The evaluation of programs related to the~~
3 ~~community achievement plan shall be connected to the evaluation~~
4 ~~components of the member district poverty and limited English proficiency~~
5 ~~plans.~~ The evaluation regarding the progress of the learning community
6 shall be conducted by one or more other entities or individuals who are
7 not employees of the learning community and shall measure progress toward
8 the goals and objectives of the learning community, which goals and
9 objectives shall include reduction of excessive absenteeism of students
10 in the member school districts of the learning community and closing
11 academic achievement gaps based on socioeconomic status, and the
12 effectiveness of the approaches used by the learning community or pilot
13 project to reach such goals and objectives. Any research conducted
14 pursuant to this section shall also be related to such goals and
15 objectives or programs related to the community achievement plan. Each
16 learning community shall report evaluation and research results
17 electronically to the Education Committee of the Legislature on or before
18 January 1 of each year.

19 Sec. 19. Section 79-2117, Revised Statutes Cumulative Supplement,
20 2016, is amended to read:

21 79-2117 Each learning community coordinating council shall have an
22 achievement subcouncil for each subcouncil district. Through January 4,
23 2017, each achievement subcouncil shall consist of the three voting
24 coordinating council members representing the subcouncil district plus
25 any nonvoting coordinating council members choosing to participate who
26 represent a school district that has territory within the subcouncil
27 district. The voting coordinating council members shall also be the
28 voting members on the achievement subcouncil. On and after January 5,
29 2017, each achievement subcouncil shall consist of the two learning
30 community coordinating council members representing the subcouncil
31 district. Each achievement subcouncil shall meet as necessary but shall

1 meet and conduct a public hearing within its subcouncil district at least
2 once each school year. Each achievement subcouncil shall:

3 (1) Develop a diversity plan recommendation for the territory in its
4 subcouncil district that will provide educational opportunities which
5 will result in increased diversity in schools in the subcouncil district;

6 (2) Administer elementary learning centers in cooperation with the
7 elementary learning center executive director;

8 ~~(3) Review the poverty plans and limited English proficiency plans~~
9 ~~for the schools located in its subcouncil district and offer suggestions~~
10 ~~to improve the plans and the coordination between such plans and the~~
11 ~~community achievement plan;~~

12 (3) ~~(4)~~ Receive community input and complaints regarding the
13 learning community and academic achievement in the subcouncil district;
14 and

15 (4) ~~(5)~~ Hold public hearings at its discretion in its subcouncil
16 district in response to issues raised by residents of the subcouncil
17 district regarding the learning community, a member school district, and
18 academic achievement in the subcouncil district.

19 Sec. 20. Sections 20 to 26 of this act shall be known and may be
20 cited as the Nebraska Reading Improvement Act.

21 Sec. 21. It is the intent of the Legislature that:

22 (1) School boards develop policies to facilitate reading instruction
23 and intervention services to address student reading needs, including,
24 but not limited to, dyslexia;

25 (2) All teachers for kindergarten through grade three should be
26 effective reading teachers as evidenced by (a) evaluations based on
27 classroom observations and student improvement on reading assessments or
28 (b) specialized training in reading improvement;

29 (3) Each student and his or her parents or guardians be informed of
30 the student's reading progress; and

31 (4) Each student in a public school be able to read at or above

1 grade level by third grade.

2 Sec. 22. (1) For school year 2019-20 and each school year
3 thereafter, each school district shall administer an approved reading
4 assessment three times during the school year to all students in
5 kindergarten through grade three, except for any student receiving
6 specialized instruction for limited English proficiency who has been
7 receiving such instruction for less than two years, any student receiving
8 special education services for whom such assessment would conflict with
9 the individualized education plan, and any student receiving services
10 under a plan pursuant to the requirements of section 504 of the federal
11 Rehabilitation Act of 1973, 29 U.S.C. 794, or Title II of the federal
12 Americans with Disabilities Act of 1990, 42 U.S.C. 12131 to 12165, as
13 such acts and sections existed on January 1, 2018, for whom such
14 assessment would conflict with such section 504 or Title II plan. The
15 first administration of such assessment for each such school year shall
16 occur within the first thirty days of the school year.

17 (2) For purposes of the Nebraska Reading Improvement Act, an
18 approved reading assessment means an assessment of student reading skills
19 approved by the State Department of Education which:

20 (a) Measures progress toward proficiency in the reading skills
21 assessed pursuant to subsection (5) of section 79-760.03 on the statewide
22 assessment of reading for grade three;

23 (b) Is valid and reliable;

24 (c) Is aligned with academic content standards for reading adopted
25 by either the State Board of Education pursuant to section 79-760.01 or
26 the school district administering such assessment pursuant to section
27 79-760.02;

28 (d) Allows teachers access to results in a reasonable time period as
29 established by the department, not to exceed fifteen working days; and

30 (e) Is commercially available and complies with requirements
31 established by the department.

1 (3) On or before March 1, 2019, and on or before each March 1
2 thereafter, the department shall make public the list of approved reading
3 assessments for the subsequent school year and the threshold level of
4 performance for each such assessment. A student performing below the
5 threshold level shall be identified as having a reading deficiency for
6 purposes of the Nebraska Reading Improvement Act.

7 (4) Diagnostic assessments used within a supplemental reading
8 intervention program do not require department approval.

9 Sec. 23. (1) Any student in kindergarten, grade one, grade two, or
10 grade three shall be identified as having a reading deficiency if such
11 student performs below the threshold level determined pursuant to section
12 22 of this act on an approved reading assessment. A student who is
13 identified as having a reading deficiency pursuant to this subsection
14 shall remain identified as having a reading deficiency until the student
15 performs at or above the threshold level on an approved reading
16 assessment.

17 (2) Nothing in the Nebraska Reading Improvement Act shall prohibit a
18 school district from identifying any other student as having a reading
19 deficiency.

20 Sec. 24. (1) Each school district shall provide a supplemental
21 reading intervention program for the purpose of ensuring that students
22 can read at or above grade level at the end of third grade. School
23 districts may work collaboratively with a reading specialist at the State
24 Department of Education, with educational service units, with learning
25 communities, or through interlocal agreements to develop and provide such
26 supplemental reading intervention programs. Each supplemental reading
27 intervention program shall:

28 (a) Be provided to any student identified as having a reading
29 deficiency;

30 (b) Be implemented during regular school hours in addition to
31 regularly scheduled reading instruction unless otherwise agreed to by a

1 parent or guardian; and

2 (c) Make available a summer reading program each summer for any
3 student who has been enrolled in grade one or higher and is identified as
4 continuing to have a reading deficiency at the conclusion of the school
5 year preceding such summer reading program. Such summer reading program
6 may be held in conjunction with existing summer programs in the school
7 district or in a community reading program not affiliated with the school
8 district or may be offered online.

9 (2) The supplemental reading intervention program may also include:

10 (a) Reading intervention techniques that are based on scientific
11 research and best practices;

12 (b) Diagnostic assessments to frequently monitor student progress
13 throughout the school year and adjust instruction accordingly;

14 (c) Intensive intervention using strategies selected from the
15 following list to match the weaknesses identified in the diagnostic
16 assessment:

17 (i) Development in phonemic awareness, phonics, fluency, vocabulary,
18 and reading comprehension;

19 (ii) Explicit and systematic instruction with detailed explanations,
20 extensive opportunities for guided practice, and opportunities for error
21 corrections and feedback; or

22 (iii) Daily targeted individual or small-group reading intervention
23 based on student needs as determined by diagnostic assessment data
24 subject to planned extracurricular school activities;

25 (d) Strategies and resources to assist with reading skills at home,
26 including parent-training workshops and suggestions for parent-guided
27 home reading; or

28 (e) Access to before-school or after-school supplemental reading
29 intervention with a teacher or tutor who has specialized training in
30 reading intervention.

31 Sec. 25. (1) The school of any student who is identified as having

1 a reading deficiency shall notify such student's parents or guardians
2 either in writing or by electronic communication no later than fifteen
3 working days after the identification of the reading deficiency that the
4 student has been identified as having a reading deficiency and that an
5 individual reading improvement plan will be established and shared with
6 the parents or guardians.

7 (2) Any student who is identified as having a reading deficiency
8 shall receive an individual reading improvement plan no later than thirty
9 days after the identification of such reading deficiency. The reading
10 improvement plan may be created by the teacher, the principal, other
11 pertinent school personnel, and the parents or guardians of the student
12 and shall describe the reading intervention services the student will
13 receive through the supplemental reading intervention program pursuant to
14 section 24 of this act to remedy such reading deficiency. Each such
15 student shall receive reading intervention services through the
16 supplemental reading intervention program pursuant to section 24 of this
17 act until the student is no longer identified as having a reading
18 deficiency.

19 Sec. 26. (1) The State Department of Education may provide
20 technical assistance as needed to assist school boards in carrying out
21 the Nebraska Reading Improvement Act.

22 (2) The department may adopt and promulgate rules and regulations to
23 carry out the act.

24 Sec. 27. Original sections 79-262, 79-293, 79-2,136, 79-408,
25 79-529, 79-760.07, 79-870, 79-1007.08, and 79-1007.09, Reissue Revised
26 Statutes of Nebraska, sections 79-528, 79-760.06, 79-1007.06, 79-1007.07,
27 79-11,155, 79-2104, 79-2104.02, and 79-2117, Revised Statutes Cumulative
28 Supplement, 2016, and section 79-1003, Revised Statutes Supplement, 2017,
29 are repealed.

30 Sec. 28. The following sections are outright repealed: Section
31 79-1014, Reissue Revised Statutes of Nebraska, and section 79-1013,

1 Revised Statutes Cumulative Supplement, 2016.