

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 457**

Introduced by Briese, 41; Erdman, 47; Groene, 42; Linehan, 39.

Read first time January 17, 2017

Committee: Education

1 A BILL FOR AN ACT relating to school finance; to amend sections 77-3442,  
2 79-1003, and 79-1028.01, Revised Statutes Cumulative Supplement,  
3 2016; to change exceptions to levy limitations and budget  
4 limitations for new voluntary termination agreements; to redefine a  
5 term; to repeal the original sections; and to declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-3442, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3 77-3442 (1) Property tax levies for the support of local governments  
4 for fiscal years beginning on or after July 1, 1998, shall be limited to  
5 the amounts set forth in this section except as provided in section  
6 77-3444.

7 (2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this  
8 section, school districts and multiple-district school systems may levy a  
9 maximum levy of one dollar and five cents per one hundred dollars of  
10 taxable valuation of property subject to the levy.

11 (b) For each fiscal year prior to fiscal year 2017-18, learning  
12 communities may levy a maximum levy for the general fund budgets of  
13 member school districts of ninety-five cents per one hundred dollars of  
14 taxable valuation of property subject to the levy. The proceeds from the  
15 levy pursuant to this subdivision shall be distributed pursuant to  
16 section 79-1073.

17 (c) Except as provided in subdivision (2)(e) of this section, for  
18 each fiscal year prior to fiscal year 2017-18, school districts that are  
19 members of learning communities may levy for purposes of such districts'  
20 general fund budget and special building funds a maximum combined levy of  
21 the difference of one dollar and five cents on each one hundred dollars  
22 of taxable property subject to the levy minus the learning community levy  
23 pursuant to subdivision (2)(b) of this section for such learning  
24 community.

25 (d) Excluded from the limitations in subdivisions (2)(a) and (2)(c)  
26 of this section are amounts levied to pay for sums agreed to be paid by a  
27 school district to certificated employees in exchange for a voluntary  
28 termination of employment occurring on or before the effective date of  
29 this act, amounts levied in compliance with sections 79-10,110 and  
30 79-10,110.02, and amounts levied to pay for special building funds and  
31 sinking funds established for projects commenced prior to April 1, 1996,

1 for construction, expansion, or alteration of school district buildings.  
2 For purposes of this subsection, commenced means any action taken by the  
3 school board on the record which commits the board to expend district  
4 funds in planning, constructing, or carrying out the project.

5 (e) Federal aid school districts may exceed the maximum levy  
6 prescribed by subdivision (2)(a) or (2)(c) of this section only to the  
7 extent necessary to qualify to receive federal aid pursuant to Title VIII  
8 of Public Law 103-382, as such title existed on September 1, 2001. For  
9 purposes of this subdivision, federal aid school district means any  
10 school district which receives ten percent or more of the revenue for its  
11 general fund budget from federal government sources pursuant to Title  
12 VIII of Public Law 103-382, as such title existed on September 1, 2001.

13 (f) For each fiscal year, learning communities may levy a maximum  
14 levy of one-half cent on each one hundred dollars of taxable property  
15 subject to the levy for elementary learning center facility leases, for  
16 remodeling of leased elementary learning center facilities, and for up to  
17 fifty percent of the estimated cost for focus school or program capital  
18 projects approved by the learning community coordinating council pursuant  
19 to section 79-2111.

20 (g) For each fiscal year, learning communities may levy a maximum  
21 levy of one and one-half cents on each one hundred dollars of taxable  
22 property subject to the levy for early childhood education programs for  
23 children in poverty, for elementary learning center employees, for  
24 contracts with other entities or individuals who are not employees of the  
25 learning community for elementary learning center programs and services,  
26 and for pilot projects, except that no more than ten percent of such levy  
27 may be used for elementary learning center employees.

28 (3) For each fiscal year, community college areas may levy the  
29 levies provided in subdivisions (2)(a) through (c) of section 85-1517, in  
30 accordance with the provisions of such subdivisions. A community college  
31 area may exceed the levy provided in subdivision (2)(b) of section

1 85-1517 by the amount necessary to retire general obligation bonds  
2 assumed by the community college area or issued pursuant to section  
3 85-1515 according to the terms of such bonds or for any obligation  
4 pursuant to section 85-1535 entered into prior to January 1, 1997.

5 (4)(a) Natural resources districts may levy a maximum levy of four  
6 and one-half cents per one hundred dollars of taxable valuation of  
7 property subject to the levy.

8 (b) Natural resources districts shall also have the power and  
9 authority to levy a tax equal to the dollar amount by which their  
10 restricted funds budgeted to administer and implement ground water  
11 management activities and integrated management activities under the  
12 Nebraska Ground Water Management and Protection Act exceed their  
13 restricted funds budgeted to administer and implement ground water  
14 management activities and integrated management activities for FY2003-04,  
15 not to exceed one cent on each one hundred dollars of taxable valuation  
16 annually on all of the taxable property within the district.

17 (c) In addition, natural resources districts located in a river  
18 basin, subbasin, or reach that has been determined to be fully  
19 appropriated pursuant to section 46-714 or designated as overappropriated  
20 pursuant to section 46-713 by the Department of Natural Resources shall  
21 also have the power and authority to levy a tax equal to the dollar  
22 amount by which their restricted funds budgeted to administer and  
23 implement ground water management activities and integrated management  
24 activities under the Nebraska Ground Water Management and Protection Act  
25 exceed their restricted funds budgeted to administer and implement ground  
26 water management activities and integrated management activities for  
27 FY2005-06, not to exceed three cents on each one hundred dollars of  
28 taxable valuation on all of the taxable property within the district for  
29 fiscal year 2006-07 and each fiscal year thereafter through fiscal year  
30 2017-18.

31 (5) Any educational service unit authorized to levy a property tax

1 pursuant to section 79-1225 may levy a maximum levy of one and one-half  
2 cents per one hundred dollars of taxable valuation of property subject to  
3 the levy.

4 (6)(a) Incorporated cities and villages which are not within the  
5 boundaries of a municipal county may levy a maximum levy of forty-five  
6 cents per one hundred dollars of taxable valuation of property subject to  
7 the levy plus an additional five cents per one hundred dollars of taxable  
8 valuation to provide financing for the municipality's share of revenue  
9 required under an agreement or agreements executed pursuant to the  
10 Interlocal Cooperation Act or the Joint Public Agency Act. The maximum  
11 levy shall include amounts levied to pay for sums to support a library  
12 pursuant to section 51-201, museum pursuant to section 51-501, visiting  
13 community nurse, home health nurse, or home health agency pursuant to  
14 section 71-1637, or statue, memorial, or monument pursuant to section  
15 80-202.

16 (b) Incorporated cities and villages which are within the boundaries  
17 of a municipal county may levy a maximum levy of ninety cents per one  
18 hundred dollars of taxable valuation of property subject to the levy. The  
19 maximum levy shall include amounts paid to a municipal county for county  
20 services, amounts levied to pay for sums to support a library pursuant to  
21 section 51-201, a museum pursuant to section 51-501, a visiting community  
22 nurse, home health nurse, or home health agency pursuant to section  
23 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

24 (7) Sanitary and improvement districts which have been in existence  
25 for more than five years may levy a maximum levy of forty cents per one  
26 hundred dollars of taxable valuation of property subject to the levy, and  
27 sanitary and improvement districts which have been in existence for five  
28 years or less shall not have a maximum levy. Unconsolidated sanitary and  
29 improvement districts which have been in existence for more than five  
30 years and are located in a municipal county may levy a maximum of eighty-  
31 five cents per hundred dollars of taxable valuation of property subject

1 to the levy.

2 (8) Counties may levy or authorize a maximum levy of fifty cents per  
3 one hundred dollars of taxable valuation of property subject to the levy,  
4 except that five cents per one hundred dollars of taxable valuation of  
5 property subject to the levy may only be levied to provide financing for  
6 the county's share of revenue required under an agreement or agreements  
7 executed pursuant to the Interlocal Cooperation Act or the Joint Public  
8 Agency Act. The maximum levy shall include amounts levied to pay for sums  
9 to support a library pursuant to section 51-201 or museum pursuant to  
10 section 51-501. The county may allocate up to fifteen cents of its  
11 authority to other political subdivisions subject to allocation of  
12 property tax authority under subsection (1) of section 77-3443 and not  
13 specifically covered in this section to levy taxes as authorized by law  
14 which do not collectively exceed fifteen cents per one hundred dollars of  
15 taxable valuation on any parcel or item of taxable property. The county  
16 may allocate to one or more other political subdivisions subject to  
17 allocation of property tax authority by the county under subsection (1)  
18 of section 77-3443 some or all of the county's five cents per one hundred  
19 dollars of valuation authorized for support of an agreement or agreements  
20 to be levied by the political subdivision for the purpose of supporting  
21 that political subdivision's share of revenue required under an agreement  
22 or agreements executed pursuant to the Interlocal Cooperation Act or the  
23 Joint Public Agency Act. If an allocation by a county would cause another  
24 county to exceed its levy authority under this section, the second county  
25 may exceed the levy authority in order to levy the amount allocated.

26 (9) Municipal counties may levy or authorize a maximum levy of one  
27 dollar per one hundred dollars of taxable valuation of property subject  
28 to the levy. The municipal county may allocate levy authority to any  
29 political subdivision or entity subject to allocation under section  
30 77-3443.

31 (10) Beginning July 1, 2016, rural and suburban fire protection

1 districts may levy a maximum levy of ten and one-half cents per one  
2 hundred dollars of taxable valuation of property subject to the levy if  
3 (a) such district is located in a county that had a levy pursuant to  
4 subsection (8) of this section in the previous year of at least forty  
5 cents per one hundred dollars of taxable valuation of property subject to  
6 the levy or (b) for any rural or suburban fire protection district that  
7 had a levy request pursuant to section 77-3443 in the previous year, the  
8 county board of the county in which the greatest portion of the valuation  
9 of such district is located did not authorize any levy authority to such  
10 district in the previous year.

11 (11) Property tax levies (a) for judgments, except judgments or  
12 orders from the Commission of Industrial Relations, obtained against a  
13 political subdivision which require or obligate a political subdivision  
14 to pay such judgment, to the extent such judgment is not paid by  
15 liability insurance coverage of a political subdivision, (b) for  
16 preexisting lease-purchase contracts approved prior to July 1, 1998, (c)  
17 for bonds as defined in section 10-134 approved according to law and  
18 secured by a levy on property except as provided in section 44-4317 for  
19 bonded indebtedness issued by educational service units and school  
20 districts, and (d) for payments by a public airport to retire interest-  
21 free loans from the Department of Aeronautics in lieu of bonded  
22 indebtedness at a lower cost to the public airport are not included in  
23 the levy limits established by this section.

24 (12) The limitations on tax levies provided in this section are to  
25 include all other general or special levies provided by law.  
26 Notwithstanding other provisions of law, the only exceptions to the  
27 limits in this section are those provided by or authorized by sections  
28 77-3442 to 77-3444.

29 (13) Tax levies in excess of the limitations in this section shall  
30 be considered unauthorized levies under section 77-1606 unless approved  
31 under section 77-3444.

1 (14) For purposes of sections 77-3442 to 77-3444, political  
2 subdivision means a political subdivision of this state and a county  
3 agricultural society.

4 (15) For school districts that file a binding resolution on or  
5 before May 9, 2008, with the county assessors, county clerks, and county  
6 treasurers for all counties in which the school district has territory  
7 pursuant to subsection (7) of section 79-458, if the combined levies,  
8 except levies for bonded indebtedness approved by the voters of the  
9 school district and levies for the refinancing of such bonded  
10 indebtedness, are in excess of the greater of (a) one dollar and twenty  
11 cents per one hundred dollars of taxable valuation of property subject to  
12 the levy or (b) the maximum levy authorized by a vote pursuant to section  
13 77-3444, all school district levies, except levies for bonded  
14 indebtedness approved by the voters of the school district and levies for  
15 the refinancing of such bonded indebtedness, shall be considered  
16 unauthorized levies under section 77-1606.

17 Sec. 2. Section 79-1003, Revised Statutes Cumulative Supplement,  
18 2016, is amended to read:

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

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



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

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

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

30 (4) Average daily membership means the average daily membership for  
31 grades kindergarten through twelve attributable to the local system, as

1 provided in each district's annual statistical summary, and includes the  
2 proportionate share of students enrolled in a public school instructional  
3 program on less than a full-time basis;

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

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

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

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

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

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

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

31 (12) District means any Class I, II, III, IV, V, or VI school

1 district and, beginning with the calculation of state aid for school  
2 fiscal year 2011-12 and each school fiscal year thereafter, a unified  
3 system as defined in section 79-4,108;

4 (13) Ensuing school fiscal year means the school fiscal year  
5 following the current school fiscal year;

6 (14) Equalization aid means the amount of assistance calculated to  
7 be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23,  
8 79-1007.25, 79-1008.01 to 79-1022, and 79-1022.02;

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

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

15 (17) Formula students means:

16 (a) For state aid certified pursuant to section 79-1022, the sum of  
17 the product of fall membership from the school fiscal year immediately  
18 preceding the school fiscal year in which the aid is to be paid  
19 multiplied by the average ratio of average daily membership to fall  
20 membership for the second school fiscal year immediately preceding the  
21 school fiscal year in which the aid is to be paid and the prior two  
22 school fiscal years plus sixty percent of the qualified early childhood  
23 education fall membership plus tuitioned students from the school fiscal  
24 year immediately preceding the school fiscal year in which aid is to be  
25 paid minus the product of the number of students enrolled in kindergarten  
26 that is not full-day kindergarten from the fall membership multiplied by  
27 0.5; and

28 (b) For the final calculation of state aid pursuant to section  
29 79-1065, the sum of average daily membership plus sixty percent of the  
30 qualified early childhood education average daily membership plus  
31 tuitioned students minus the product of the number of students enrolled

1 in kindergarten that is not full-day kindergarten from the average daily  
2 membership multiplied by 0.5 from the school fiscal year immediately  
3 preceding the school fiscal year in which aid was paid;

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

30 (19) Free lunch and free milk student means, for school fiscal years  
31 prior to school fiscal year 2016-17, a student who qualified for free

1 lunches or free milk from the most recent data available on November 1 of  
2 the school fiscal year immediately preceding the school fiscal year in  
3 which aid is to be paid;

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

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

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

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

1 section 79-855, and staff development assistance authorized by section  
2 79-856, (c) the amount of any transfers from the general fund to any bond  
3 fund and transfers from other funds into the general fund, (d) any legal  
4 expenses in excess of fifteen-hundredths of one percent of the formula  
5 need for the school fiscal year in which the expenses occurred, (e)(i)  
6 for state aid calculated for school fiscal years prior to school fiscal  
7 year 2018-19, (e) expenditures to pay for sums agreed to be paid by a  
8 school district to certificated employees in exchange for a voluntary  
9 termination occurring prior to July 1, 2009, occurring on or after the  
10 last day of the 2010-11 school year and prior to the first day of the  
11 2013-14 school year, or, to the extent that a district has demonstrated  
12 to the State Board of Education pursuant to section 79-1028.01 that the  
13 agreement will result in a net savings in salary and benefit costs to the  
14 school district over a five-year period, occurring on or after the first  
15 day of the 2013-14 school year or (ii) for state aid calculated for  
16 school fiscal year 2018-19 and each school fiscal year thereafter,  
17 expenditure to pay for sums agreed to be paid by a school district to  
18 certificated employees in exchange for a voluntary termination, (f)(i)  
19 expenditures to pay for employer contributions pursuant to subsection (2)  
20 of section 79-958 to the School Employees Retirement System of the State  
21 of Nebraska to the extent that such expenditures exceed the employer  
22 contributions under such subsection that would have been made at a  
23 contribution rate of seven and thirty-five hundredths percent or (ii)  
24 expenditures to pay for school district contributions pursuant to  
25 subdivision (1)(c)(i) of section 79-9,113 to the retirement system  
26 established pursuant to the Class V School Employees Retirement Act to  
27 the extent that such expenditures exceed the school district  
28 contributions under such subdivision that would have been made at a  
29 contribution rate of seven and thirty-seven hundredths percent, and (g)  
30 any amounts paid by the district for lobbyist fees and expenses reported  
31 to the Clerk of the Legislature pursuant to section 49-1483.

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

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

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

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

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

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

1 affiliated with each high school district;

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

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

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



1 valuation data are available;

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

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

29 (34) Qualified early childhood education fall membership means the  
30 product of membership on the last Friday in September 2006 and each year  
31 thereafter of students who will be eligible to attend kindergarten the

1 following school year and are enrolled in an early childhood education  
2 program approved by the department pursuant to section 79-1103 for such  
3 school district for such school year multiplied by the ratio of the  
4 planned instructional hours of the program divided by one thousand  
5 thirty-two if: (a) The program is receiving a grant pursuant to such  
6 section for the third year; (b) the program has already received grants  
7 pursuant to such section for three years; or (c) the program has been  
8 approved pursuant to subsection (5) of section 79-1103 for such school  
9 year and the two preceding school years, including any such students in  
10 portions of any of such programs receiving an expansion 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. 3. Section 79-1028.01, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3           79-1028.01 (1) For each school fiscal year, a school district may  
4 exceed its budget authority for the general fund budget of expenditures  
5 as calculated pursuant to section 79-1023 for such school fiscal year by  
6 a specific dollar amount for the following exclusions:

7           (a) Expenditures for repairs to infrastructure damaged by a natural  
8 disaster which is declared a disaster emergency pursuant to the Emergency  
9 Management Act;

10           (b) Expenditures for judgments, except judgments or orders from the  
11 Commission of Industrial Relations, obtained against a school district  
12 which require or obligate a school district to pay such judgment, to the  
13 extent such judgment is not paid by liability insurance coverage of a  
14 school district;

15           (c) Expenditures pursuant to the Retirement Incentive Plan  
16 authorized in section 79-855 or the Staff Development Assistance  
17 authorized in section 79-856;

18           (d) Expenditures of amounts received from educational entities as  
19 defined in section 79-1201.01 for providing distance education courses  
20 through the Educational Service Unit Coordinating Council to such  
21 educational entities;

22           (e) Expenditures to pay for employer contributions pursuant to  
23 subsection (2) of section 79-958 to the School Employees Retirement  
24 System of the State of Nebraska to the extent that such expenditures  
25 exceed the employer contributions under such subsection that would have  
26 been made at a contribution rate of seven and thirty-five hundredths  
27 percent;

28           (f) Expenditures to pay for school district contributions pursuant  
29 to subdivision (1)(c)(i) of section 79-9,113 to the retirement system  
30 established pursuant to the Class V School Employees Retirement Act to  
31 the extent that such expenditures exceed the school district

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

3 (g) Expenditures for sums agreed to be paid by a school district to  
4 certificated employees in exchange for a voluntary termination occurring  
5 prior to July 1, 2009, occurring on or after the last day of the 2010-11  
6 school year and prior to the first day of the 2013-14 school year, or, to  
7 the extent that a district demonstrates to the State Board of Education  
8 pursuant to subsection (3) of this section that the agreement will result  
9 in a net savings in salary and benefit costs to the school district over  
10 a five-year period, occurring on or after the first day of the 2013-14  
11 school year and on or before the effective date of this act;

12 (h) The special education budget of expenditures;

13 (i) Expenditures of special grant funds; and

14 (j) Expenditures of funds received as federal impact aid pursuant to  
15 20 U.S.C. 7701 to 7714, as such sections existed on January 1, 2016, due  
16 to a district having land within its boundaries that is federal property  
17 classified as Indian lands under 20 U.S.C. 7713(7), as such section  
18 existed on January 1, 2016, and funds received as impact aid due to  
19 children in attendance who resided on Indian lands in accordance with 20  
20 U.S.C. 7703(a)(1)(C), as such section existed on January 1, 2016.

21 (2) For each school fiscal year, a school district may exceed its  
22 budget authority for the general fund budget of expenditures as  
23 calculated pursuant to section 79-1023 for such school fiscal year by a  
24 specific dollar amount and include such dollar amount in the budget of  
25 expenditures used to calculate budget authority for the general fund  
26 budget of expenditures pursuant to section 79-1023 for future years for  
27 the following exclusions:

28 (a) The first school fiscal year the district will be participating  
29 in Network Nebraska for the full school fiscal year, for the difference  
30 of the estimated expenditures for such school fiscal year for  
31 telecommunications services, access to data transmission networks that

1 transmit data to and from the school district, and the transmission of  
2 data on such networks as such expenditures are defined by the department  
3 for purposes of the distance education and telecommunications allowance  
4 minus the dollar amount of such expenditures for the second school fiscal  
5 year preceding the first full school fiscal year the district  
6 participates in Network Nebraska;

7 (b) Expenditures for new elementary attendance sites in the first  
8 year of operation or the first year of operation after being closed for  
9 at least one school year if such elementary attendance site will most  
10 likely qualify for the elementary site allowance in the immediately  
11 following school fiscal year as determined by the state board;

12 (c) For the first school fiscal year for which early childhood  
13 education membership is included in formula students for the calculation  
14 of state aid, expenditures for early childhood education equal to the  
15 amount the school district received in early childhood education grants  
16 pursuant to section 79-1103 for the prior school fiscal year, increased  
17 by the basic allowable growth rate; and

18 (d) For school fiscal year 2013-14, an amount not to exceed two  
19 percent over the previous school year if such increase is approved by a  
20 seventy-five percent majority vote of the school board of such district.

21 (3) The state board shall approve, deny, or modify the amount  
22 allowed for any exclusions to the budget authority for the general fund  
23 budget of expenditures pursuant to this section.

24 Sec. 4. Original sections 77-3442, 79-1003, and 79-1028.01, Revised  
25 Statutes Cumulative Supplement, 2016, are repealed.

26 Sec. 5. Since an emergency exists, this act takes effect when  
27 passed and approved according to law.