

ENGROSSED LEGISLATIVE BILL 303

Introduced by Hughes, 24; at the request of the Governor; Brandt, 32; Dorn, 30; Conrad, 46.

A BILL FOR AN ACT relating to education; to amend section 79-1028.01, Reissue Revised Statutes of Nebraska; to create the School Financing Review Commission; to provide duties; to change provisions relating to the ability of a school district to exceed its budget authority for the general fund budget of expenditures under the Tax Equity and Educational Opportunities Support Act; to repeal the original section; and to declare an emergency.

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

Section 1. (1) The School Financing Review Commission is created. The commission shall consist of eighteen members, including:

(a) The Commissioner of Education or a designee of the Commissioner of Education;

(b) The Property Tax Administrator or a designee of the Property Tax Administrator;

(c) One representative of the Governor appointed by the Governor;

(d) Three members of the Legislature, who shall be nonvoting members of the commission, including the Chairperson of the Education Committee of the Legislature or the chairperson's designee, the Chairperson of the Revenue Committee of the Legislature or the chairperson's designee, and one member appointed pursuant to subsection (2) of this section. No more than two members shall be affiliated with the same political party;

(e) One member who is a representative of postsecondary education with expertise in school finance;

(f) Four members who are superintendents or school board members representing a Class I, II, or III school district. There shall be at least one member appointed pursuant to this subdivision (1)(f) representing each class of school district. Of the members appointed pursuant to this subdivision (1)(f),

no more than two members shall represent the same class of school district, no more than three members may be superintendents, and no more than three members may be school board members;

(g) One member that is a representative of a Class IV school district and one member that is a representative of a Class V school district. One member appointed pursuant to this subdivision (1)(g) shall be a school board member of the school district being represented and the other member appointed pursuant to this subdivision (1)(g) shall be a school administrator in the other school district being represented; and

(h) Five members appointed from the state at large, which shall include (i) at least one individual having experience in business, (ii) at least one individual having experience in farming, (iii) at least one individual teaching as a certified teacher in a public school, and (iv) two other individuals. Members appointed pursuant to subdivision (i) and (ii) of this subdivision (1)(h) may be retired.

(2)(a) The member to be appointed as described in subdivision (1)(d) of this section shall be appointed by the Executive Board of the Legislative Council in January of each odd-numbered year for a two-year term, except that the initial member shall be appointed within thirty days after the effective date of this act and shall serve until a successor is appointed in January 2027.

(b) The members described in subdivisions (1)(a) through (c) of this section shall serve as ex officio members of the commission.

(3) The members described in subdivisions (1)(e) through (h) of this section shall be appointed by the Governor within thirty days after the effective date of this act. Initial appointees under this subsection shall serve terms as described in subsection (4) of this section. Thereafter, such members shall serve terms of three years, and any vacancy shall be filled by the Governor for the remainder of the vacated term. For purposes of determining term length and expiration of such terms, the initial terms for such members shall begin thirty days after the effective date of this act.

(4)(a) The initial terms for members described in subdivisions (1)(e) through (h) of this section shall be as follows:

(i) The member appointed pursuant to subdivision (1)(e) of this section, one member described in subdivision (1)(g) of this section, and one member described in subdivision (1)(h) of this section shall serve a three-year term;

(ii) Two members described in subdivision (1)(f) of this section, one member described in subdivision (1)(g) of this section, and one member described in subdivision (1)(h) shall serve an initial term of two years; and

(iii) Two members described in subdivision (1)(f) of this section and three members described in subdivision (1)(h) of this section shall serve an initial term of one year.

(b) The Governor shall, upon appointment, designate the initial term for the members appointed subject to subdivision (4)(a) of this section.

(5) If at any point a member no longer meets the qualification for such member's position on the commission, such member shall vacate membership on the commission. Any vacancy in the commission shall be filled in the same manner and same qualification as the original appointment.

(6) A member of the commission appointed pursuant to subsection (3) of this section shall not receive any compensation for services as a member but shall be reimbursed for expenses incurred as a member of the commission as provided in sections 81-1174 to 81-1177.

(7) The Commissioner of Education or the designee of the Commissioner of Education shall be the chairperson of the commission, and the commission shall elect a vice-chairperson from among its members.

(8) The commission shall meet at least four times a year and at least once per calendar quarter.

(9) The State Department of Education may provide staff to assist the commission as needed and requested by the chairperson of the commission in accordance with guidelines developed by the commission. The commission may also obtain assistance from the State Department of Education, the Department of Revenue, and the Legislative Fiscal Analyst in acquiring the data needed to

carry out its duties.

(10) For administrative purposes, the commission shall be housed within the State Department of Education.

Sec. 2. (1)(a) The purpose of the School Financing Review Commission is to study and provide advisory recommendations relating to school funding in Nebraska. The commission shall:

(i) Evaluate the school funding formula for education under the Tax Equity and Educational Opportunities Support Act and make recommendations for adjustments or changes to such formula that may be necessary to help prevent the increase of property taxes;

(ii) Regularly review the resources side of the formula under the Tax Equity and Educational Opportunities Support Act;

(iii) Regularly review the needs side of the formula under the Tax Equity and Educational Opportunities Support Act;

(iv) Analyze options for how to minimize the negative impact on schools during times when the state may be unable to fully fund the formula under the Tax Equity and Educational Opportunities Support Act;

(v) Analyze the impact of funding for education on student achievement and outcomes, focusing on, but not limited to: Access to early childhood education; student attendance; literacy; graduation rate; college-going rate; and postsecondary workforce participation; and

(vi) Analyze the impact of funding for education on issues and resources impacting students with relatively high needs, including, but not limited to, students who live in areas of high concentrations of poverty, students with an individualized education program, and students with limited English proficiency.

(b) The School Financing Review Commission, to the extent it is practical, shall compare findings from subdivision (1)(a) of this section to similar policies from other states.

(2) By December 1, 2025, and by November 1 of each year thereafter, the commission shall prepare and electronically deliver to the Clerk of the

Legislature an annual report with the observations and recommendations developed pursuant to subsection (1) of this section.

Sec. 3. Section 79-1028.01, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(ii) For school fiscal years 2025-26 and 2026-27, the amount of the expenditures described in subdivision (1)(e)(i) of this section for school fiscal year 2024-25 may be carried over and included in the budget authority for the general fund budget of expenditures for school fiscal years 2025-26 and 2026-27;

(f) Expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) or (1)(d)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent;

(g) Expenditures for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to July 1, 2009, occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, or, to the extent that a district demonstrates to the State Board of Education pursuant to subsection (3) of this section that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year and prior to September 1, 2017;

(h) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to this subsection;

(i) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for seventy-five percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(j) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for

such school district as calculated pursuant to section 79-1023 for such school fiscal year for fifty percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(k) Expenditures by a school district with budgeted expenditures otherwise equal to the budget authority for the general fund budget of expenditures for such school district as calculated pursuant to section 79-1023 for such school fiscal year for twenty-five percent of incentives agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to this subsection;

(l) The special education budget of expenditures;

(m) Expenditures of special grant funds; and

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

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

(a) The first school fiscal year the district will be participating in Network Nebraska for the full school fiscal year, for the difference of the

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

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

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

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

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

Sec. 4. Original section 79-1028.01, Reissue Revised Statutes of Nebraska, is repealed.

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

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 303 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR