Introduced by Wayne, 13.

Read first time January 23, 2019

Committee: Education

A BILL FOR AN ACT relating to schools; to amend sections 79-528 and
79-1003, Revised Statutes Cumulative Supplement, 2018; to change
reporting requirements; to define and redefine terms; to include
virtual school students in the calculation of aid under the Tax
Equity and Educational Opportunities Support Act; to harmonize
provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 79-528, Revised Statutes Cumulative Supplement, 2018, is amended to read:

79-528 (1)(a) On or before July 20 in all school districts, the superintendent shall file with the State Department of Education a report showing the number of children from five through eighteen years of age belonging to the school district according to the census taken as provided in sections 79-524 and 79-578.

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

(2) On or before June 30 the superintendent of each school district shall file with the Commissioner of Education a report described as an end-of-the-school-year annual statistical summary showing (a) the number of children attending school during the year under five years of age, (b) the length of time the school has been taught during the year by a qualified teacher, (c) the length of time taught by each substitute teacher, (d) the number of classes a student is required to enroll in for full-time enrollment in the district at each grade level for the school year, (e) the definition of a class used by the district for the purpose of determining full-time and part-time enrollment at each grade level for the school year, (f) the number of classes completed by each virtual school student as defined in section 79-1003 for the school year, and (g) such other information as the Commissioner of Education directs.

(3) On or before November 1 the superintendent of each school district shall submit to the Commissioner of Education a report described as the annual financial report showing (i) the amount of money received from all sources during the year and the amount of money expended by the school district during the year, (ii) the amount of bonded indebtedness, (iii) such other information as shall be necessary to fulfill the requirements of the Tax Equity and Educational Opportunities Support Act and section 79-1114, and (iv) such other information as the Commissioner
(4)(a) On or before October 15 of each year, the superintendent of each school district shall file with the commissioner the fall school district membership report, which report shall include the number of children from birth through twenty years of age enrolled in the district on October 1 of a given school year. The report shall also include the number of classes a student is required to enroll in for full-time enrollment in the district at each grade level for such school year, (viii) the definition of a class used by the district for the purpose of determining full-time and part-time enrollment at each grade level for such school year, (ix) the number of classes in which each virtual school student as defined in section 79-1003 is enrolled on October 1 of such school year, and (x) such other information as the Commissioner of Education directs.

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

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

Sec. 2. Section 79-1003, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

(1) Adjusted general fund operating expenditures means (a) for school fiscal years 2013-14 through 2015-16, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance, (b) for school fiscal years 2016-17 through 2018-19, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, and focus school and program allowance, and (c) for school fiscal year 2019-20 and each school fiscal year thereafter, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) of this section increased by the cost growth factor calculated pursuant to section 79-1007.10, minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, summer school allowance, and focus school and program allowance.
allowance, community achievement plan allowance, and focus school and
program allowance;

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

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

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

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

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

(7) Categorical funds means funds limited to a specific purpose by
federal or state law, including, but not limited to, Title I funds, Title
VI funds, federal vocational education funds, federal school lunch funds,
Indian education funds, Head Start funds, and funds from the Education
Innovation Fund;
(8) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

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

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

(11) Department means the State Department of Education;

(12) District means any school district or unified system as defined in section 79-4,108;

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

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

(15) Fall membership means, the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528, the total membership in kindergarten through grade twelve attributable to the local system, including the proportionate share of students enrolled in a public school instructional program on less than a
full-time basis;

(16) Fiscal year means the period from July 1 to the following June 30;

(17) Formula students means:

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

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

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

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

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

(21) General fund budget of expenditures means the total budget of
disbursements and transfers for general fund purposes as certified in the
budget statement adopted pursuant to the Nebraska Budget Act, except that
for purposes of the limitation imposed in section 79-1023, the general
fund budget of expenditures does not include any special grant funds,
exclusive of local matching funds, received by a district;
(22) General fund expenditures means all expenditures from the general fund;

(23) General fund operating expenditures means for state aid calculated for school fiscal years 2012-13 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (a) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, 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, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (b) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (c) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (d) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (e)(i) for state aid calculated for school fiscal years prior to school fiscal year 2018-19, expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination 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 has demonstrated to the State Board of Education pursuant to section 79-1028.01 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 or (ii) for state aid calculated for school fiscal year 2018-19 and each school fiscal year thereafter, expenditures to pay for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment for which the State Board of Education approved an exclusion pursuant to subdivision (1)(h), (i), (j), or (k) of section 79-1028.01, (f)(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 or (ii) 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, and (g) any amounts paid by the district for lobbyist fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

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

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

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

(27) Local system means a unified system or a school district;

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

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

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

(31) Poverty students means (a) for school fiscal years prior to
2016-17, the number of low-income students or the number of students who
are free lunch and free milk students in a district plus the difference
of the number of low-income students or the number of students who are
free lunch and free milk students in a district, whichever is greater,
minus the average number of poverty students for such district, prior to
such addition, for the three immediately preceding school fiscal years if
such difference is greater than zero and (b) for school fiscal year
2016-17 and each school fiscal year thereafter, the unadjusted poverty
students plus the difference of such unadjusted poverty students minus
the average number of poverty students for such district, prior to such
addition, for the three immediately preceding school fiscal years if such
difference is greater than zero;

(32) Proportionate share of students enrolled in a public school
instructional program on less than a full-time basis means, for both
virtual school students and students who are not virtual school students
who are enrolled in a public school instructional program on less than a
full-time basis, (a) for the purposes of fall membership, the number of
classes for which such students are enrolled in a public school
Instructional program in the school district on October 1 divided by the number of classes such students would be required to enroll in for full-time enrollment in the district and (b) for the purposes of average daily membership, the number of classes in a public school instructional program in the school district completed by such students during the school year divided by the number of classes such students would have been required to enroll in for full-time enrollment in the district;

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

(34) (33) Qualified early childhood education fall membership means the product of membership on October 1 of each school year of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of
section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

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

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

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

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

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

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

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

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

(39) (38) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;
Special grant funds means the budgeted receipts for grants, including, but not limited to, categorical funds, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

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

State board means the State Board of Education;

State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

Teacher has the definition found in section 79-101;

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

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

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

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

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

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

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

(52) Virtual school means any school or educational program that:

(a) Is operated by a school district;

(b) Offers courses for credit;

(c) Uses predominately Internet-based methods to deliver instruction;

(d) Involves instruction that occurs asynchronously with the teacher.
and student in separate locations;

(e) Requires the student to make academic progress toward the next grade level or high school graduation;

(f) Requires the student to demonstrate subject matter competence for each course or subject in which the student is enrolled as part of the virtual school; and

(g) Requires the student, when age-appropriate, to complete state assessments; and

(53) Virtual school student means a student who is a resident of Nebraska enrolled in and attending a virtual school on at least a part-time basis.

Sec. 3. Original sections 79-528 and 79-1003, Revised Statutes Cumulative Supplement, 2018, are repealed.