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LB 545

Revision: 02

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised on 5/12/09 based on amendments adopted through 5/11/09.

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *

	FY 2009-10		FY 2010-11	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	-$7,504,480		-$51,643,625	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	-$7,504,480		-$51,643,625	

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 545 changes the formula which provides state aid to schools pursuant to the Tax Equity and Educational Opportunities Support Act. The fiscal estimate for 2009-10 is based upon a comparison of the aid that would have been distributed in 2009-10 pursuant to current law and the aid that would be allocated per LB 545. The fiscal impact for 2010-11 and beyond is estimated and may also change pursuant to school spending and valuation changes.

CHANGES TO NEEDS IN THE TEEOSA FORMULA: The bill changes various portions of the computation of school district needs in the state aid formula. The changes which will have a fiscal impact for the state and/or school districts are as follows:

Base Limitation/Cost Growth Factor: The base limitation rate or allowable growth rate in the aid formula is decreased from 2.5% to 1.5% for 2009-10 through 2012-13. The change in the rate decreases the cost growth factor in the formula which is used to inflate school district expenditures for purposes of calculating aid. Currently, the cost growth factor is 6%. LB 545 sets the cost growth factor at 5.5% for 2009-10 and 5% for 2010-11. The bill decreases the cost growth factor to 4.5% in 2011-12, 2012-13 and 2013-14. The factor returns to 5% in 2014-15 and 6% in 2015-16.

The decrease in the cost growth factor decreases the amount of state aid that is provided as basic funding. The decrease in basic funding pursuant to the decrease in the cost growth factor is about $9.4 million in 2009-10, $19.8 million in 2010-11 and $31 million in 2011-12.

Averaging Adjustment: The averaging adjustment increases need for districts whose basic funding per student is less than the statewide average basic funding per formula student. Under current law, in 2009-10, a district must levy at least the local effort rate ($1.00) in the preceding fiscal year to be eligible for the adjustment. The adjustment equals 100% of a district's formula students times a percentage of the difference between the statewide average basic funding per adjusted formula student and the district's basic funding per adjusted formula student. The percentage used for the adjustment varies from 50% to 90% depending upon the amount of the prior year levy.

The bill changes the basis for the averaging adjustment beginning in 2009-10. The adjustment will now be provided to a school district if the basic funding per formula student of a district is less than an averaging adjustment threshold. It will also be based upon 100% of a district's formula students. The averaging adjustment threshold is the lesser of: the averaging adjustment threshold for the prior school year increased by the basic allowable growth rate plus .5%, or the statewide basic funding per formula student. The 2008-09 threshold is defined to be the statewide basic funding per formula student. The change to the use of an adjustment threshold and 100% of formula students increases state aid by about $917,000 in 2009-10 and reduces aid by about $32.7 million in 2010-11 and $34.3 million in 2011-12.

Instructional Time Allowance: The bill changes the calculation of the instructional time allowance beginning in 2010-11. The calculation will be based upon the amount that a district is above the statewide average hours of instruction rather than the amount that a district is above the comparison group average hours of instruction. The change in the calculation of the allowance will not increase or decrease the overall amount of state aid distributed but will change the amount received by individual districts as an allowance in the formula.

Learning Community Hold-Harmless: The bill eliminates the current five-year phase-in of resources to school districts in a learning community in the calculation of state aid. The bill provides for a minimum level of formula need for school districts in a learning community for the first full school fiscal year of the learning community. The minimum level is based upon a district's prior year's state aid, plus a district's other receipts, plus a district's general fund levy up to $1.05 times the district's assessed valuation. Future formula need for such districts is equal to the prior year's calculation of need. The estimated general fund fiscal impact of the change in the calculation of state aid is $159,455 in 2009-10.

The bill also eliminates the current hold-harmless provisions relating to the distribution of common levy proceeds to school districts in a learning community in the first three years of the learning community. Current law provides a proportional distribution of common levy tax proceeds in the first three years of a learning community based on the greater of: a school district's need in the state aid formula, less state aid and other actual receipts; or, the state aid received in the year prior to the first year a common levy is imposed, plus the yield from the district's general fund levy times the assessed valuation for the school year of distribution, minus state aid for such school year. LB 545 eliminates the three year phase-in and provides for common levy proceeds to be allocated proportionally based on the first alternative which is need, less state aid and other receipts.

Changing the method of determining property tax allocation for schools in a learning community will not change the total amount of property taxes received by school districts in a learning community but will alter the distribution of such proceeds to member school districts in 2009-10 through 2013-14. It is assumed the changes provide for the majority of districts in the learning community to receive a greater portion of the allocation of property taxes from the learning community than otherwise would have been received. The change in property tax receipts for individual districts is unknown.

School District Employer Contributions to Retirement: Any school district contributions to retirement in excess of 7.35% for the state teacher retirement system or 7.37% for the Class V school retirement system made in 2009-10 through 2013-14 are excluded from general fund operating expenses for the purposes of calculating state aid.

CHANGES TO RESOURCES IN THE TEEOSA FORMULA:

Retirement Aid: The bill provides for NDE to calculate an amount for retirement aid to be paid to school districts in 2009-10 through 2013-14. NDE is to calculate the amount for each district equal to $15 million times the school district's salary percentage. The fiscal impact of the inclusion of retirement aid as a resource in the formula is increased state aid of $823,728. The increase in aid will flow to school districts which are non-equalized.

CHANGES TO BUDGET LIMITS: LB 988 (2008) implemented a new method to compute budget lids beginning in 2008-09. General fund budgets, excluding special education and special grant funds, are limited to the greater of: the prior year's general fund budget of expenditures times one plus the local district's allowable growth rate, or, 120% of the formula needs (less the prior year's special education budget times one plus the basic allowable growth rate).

The decrease in the base limitation rate (allowable growth rate) that was referenced in the needs discussion also changes the calculation of budget limits. The decrease in the allowable growth rate from 2.5% to 1.5% will result in a decrease in budget limits for some school districts in 2009-10 through 2012-13. It is estimated the change in the allowable growth rate will decrease school spending by .5% in 2009-10 through 2012-13. Decreased school spending results in a decrease in state aid, two years after the spending decrease occurs. The estimated fiscal impact is a $14.4 million decrease in state aid in 2011-12 and a $30.3 million decrease in 2012-13.

School District Employer Contributions to Retirement: The bill excludes from the budget limitation, expenditures made by school districts participating in the state teacher retirement plan in 2009-10 through 2013-14, for retirement expenses that are in excess of the employer contribution rate of 7.35%. The same provision applies to school district contributions to the Class V retirement system in excess of 7.37%. The fiscal impact in terms of increased spending by school districts is unknown.

Early Retirement Budget Exception: The bill includes the provisions of LB 364 which change state aid beginning in 2010-11. The bill excludes expenditures by a school district to certificated employees for voluntary termination agreements occurring prior to July 1, 2009 from the calculation of general fund operating expenditures in the state aid formula. These expenditures are also excluded from the general fund budget limit.

The Annual Financial Report for School Districts shows over $12.7 million of expenditures for voluntary termination agreements in 2007-08. It is assumed that at least 75% of the expenditures are for certificated staff. If so, then approximately $9.5 million of expenditures would be excluded from general fund operating expenses. A decrease in general fund operating expenses will likely decrease state aid for school districts with voluntary termination agreements and the other ten school districts in their basic funding group. However, the stabilization factor in the formula could offset some of the decrease.

LB 988 (2007) eliminated exclusions from the budget lid for expenditures made for voluntary termination agreements. The bill restores these exclusions for termination agreements occurring prior to July 1, 2009. The State Department of Education indicates that school districts budgeted $30.7 million of exclusions for voluntary termination agreements in 2007-08. It is possible the restoration of the exclusion will allow some school districts to spend more than would have been spent in the absence of the exclusion. However, a fiscal impact for school districts cannot be projected.

New Elementary Attendance Sites: Expenditures for new elementary attendance sites in the first year or operation or in the first year of operation after being closed for at least one year are excluded from the budget limitation, if such sites will likely qualify for the elementary site allowance in the following school year. The fiscal impact in terms of increased spending by school districts is unknown.

ARRA Funding: School districts will receive federal funding pursuant to the American Recovery and Reinvestment Act of 2009 through the TEEOSA formula. The bill provides that each school district will receive a share of the total amount of federal funding provided through the act that is proportional to the amount of equalization aid received by the school district times the percentage that ARRA funding is of total TEEOSA funding. The federal allocation is not considered a special grant fund for purposes of state aid so ARRA expenditures are part of general fund operating expenses.

Aid Certification Date: The bill changes the certification date for FY2010-11 state aid from on or before February 1, 2010 to on or before March 1, 2010.

In summary, the bill decreases the amount of state aid distributed in 2009-10 by about $7.5 million and the amount that would have been distributed in 2010-11 by about $51.6 million. It should be noted the 2008-09 amount of state aid is $839 million, so the amount of aid funding pursuant to the bill will increase by 11.3% in 2009-10 and 5.1% in 2010-11.

	2009-10	2010-11	2011-12	2012-13
Current Law – Est. State Aid Total	941,380,498	1,032,918,967	1,140,052,416	1,219,030,929
Cost Growth Factor	-9,404,320	-19,796,023	-31,004,336	-32,551,038
Averaging Adjustment	916,657	-32,671,330	-34,304,896	-36,016,251
Allowable Growth Rate (est. -.5%)			-14,372,520	-30,278,154
Retirement Assistance	823,728	823,728	823,728	823,728
Learning Community Hold-Harmless	159,455	0	0	0
LB 545 Fiscal Impact	-7,504,480	-51,643,625	-78,858,024	-98,021,715
Total Estimated State Aid	933,876,018	981,275,343	1,061,194,392	1,121,009,214

REORGANIZATION INCENTIVES: LB 546 provides for the state to fund incentive payments to encourage Class II and III school districts with less than 390 students to reorganize into Class II, III, IV or V school districts with greater than 390 students. The incentive payments apply to consolidations after May 31, 2009 and before June 1, 2011. Incentives are paid to reorganized schools for two years. The incentive payments are provided from the School District Reorganization Fund.

The bill provides that funds transferred to the Education Innovation Fund from the School District Reorganization Fund (SDRO) shall be transferred back to the SDRO Fund in 2009-10. The source of the funds is lottery proceeds. The State Department of Education transferred $456,912 from the SDRO to the Education Innovation Fund on January 14, 2009. These funds will be transferred back per the bill to be used for incentive payments. The bill repeals language allowing the payment of up to $200,000 for aggregation routing equipment and network transport costs for Network Nebraska and allows the $200,000 to also be used for incentive payments. Any funds remaining in the SDRO fund on July 1, 2013 are transferred to the Education Innovation on such date.

School districts qualifying for an incentive pursuant to the bill will receive $125,000. In addition, the district receives $500 per student times the difference between 390 students minus the average membership in the district. The initial base year incentive equals 50% of this calculation. The funds are to be prorated if the total is insufficient to fund all schools qualified for incentives.

The remainder of the fund is allocated in the second year. The second year allocation is the remaining 50% of the calculated incentive. The funds are prorated in the second year if the total is insufficient to fund all of the schools qualified for incentives. Neither base year nor second year incentives are considered to be resources for purposes of calculating state aid to school districts.

It is unknown how many Class II and Class III school districts will opt to consolidate during the time period allowed in the bill to receive an incentive. In 2007-08, there were 140 Class II and III school districts with less 390 students. The amount of funding available from the SDRO will allow about four or five districts to receive an incentive in the full amount as provided by the bill. If more reorganizations occur, then incentives will be prorated.

It is assumed the reorganization of school districts into districts with 390 or more students will result in efficiencies which will reduce the overall amount expended by school districts. Decreased spending by school districts reduces state aid two years later. School districts opting to consolidate may initially have increased expenditures related to consolidation such as retirement incentives and staff development.

ARRA ASSISTANCE/BONDING: The bill requires NDE to establish procedures for allocating bond authority to school boards as necessary pursuant to the American Recovery and Reinvestment Act of 2009. The bill allows school districts the authority to use the bond programs available for projects through the federal legislation. It also allows a school district to levy a tax to repay an ARRA bond.