

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 1079**

Introduced by Raikes, 25; Ashford, 20.

Read first time January 22, 2008

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities  
2 Support Act; to amend section 79-1003, Revised Statutes  
3 Supplement, 2007; to exclude a percentage of legal  
4 expenses from the definition of general fund operating  
5 expenditures as prescribed; and to repeal the original  
6 section.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 79-1003, Revised Statutes Supplement,  
2 2007, is amended to read:

3           79-1003 For purposes of the Tax Equity and Educational  
4 Opportunities Support Act:

5           (1) Adjusted general fund operating expenditures means  
6 (a) for school fiscal years before school fiscal year 2007-08,  
7 general fund operating expenditures as calculated pursuant  
8 to subdivision (24) of this section minus the transportation  
9 allowance and minus the special receipts allowance, (b) for  
10 school fiscal year 2007-08, general fund operating expenditures  
11 as calculated pursuant to subdivision (24) of this section minus  
12 the sum of the transportation, special receipts, and distance  
13 education and telecommunications allowances, and (c) for school  
14 fiscal year 2008-09 and each school fiscal year thereafter,  
15 the difference of the product of the general fund operating  
16 expenditures as calculated pursuant to subdivision (24) of this  
17 section multiplied by the cost growth factor for the school  
18 district's cost grouping calculated pursuant to section 79-1007.10  
19 minus the transportation allowance, special receipts allowance,  
20 poverty allowance, limited English proficiency allowance, distance  
21 education and telecommunications allowance, elementary class size  
22 allowance, and focus school and program allowance;

23           (2) Adjusted valuation means the assessed valuation of  
24 taxable property of each local system in the state, adjusted  
25 pursuant to the adjustment factors described in section 79-1016.

1 Adjusted valuation means the adjusted valuation for the property  
2 tax year ending during the school fiscal year immediately preceding  
3 the school fiscal year in which the aid based upon that value is  
4 to be paid. For purposes of determining the local effort rate yield  
5 pursuant to section 79-1015.01, adjusted valuation does not include  
6 the value of any property which a court, by a final judgment from  
7 which no appeal is taken, has declared to be nontaxable or exempt  
8 from taxation;

9 (3) Allocated income tax funds means the amount of  
10 assistance paid to a local system pursuant to section 79-1005.01 or  
11 79-1005.02 as adjusted by the minimum levy adjustment pursuant to  
12 section 79-1008.02;

13 (4) Average daily attendance of a student who resides on  
14 Indian land means average daily attendance of a student who resides  
15 on Indian land from the most recent data available on November 1  
16 preceding the school fiscal year in which aid is to be paid;

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

23 (6) Base fiscal year means the first school fiscal year  
24 following the school fiscal year in which the reorganization or  
25 unification occurred;

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

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

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

10 (10) Converted contract means an expired contract that  
11 was in effect for at least fifteen years for the education of  
12 students in a nonresident district in exchange for tuition from  
13 the resident district when the expiration of such contract results  
14 in the nonresident district educating students who would have been  
15 covered by the contract if the contract were still in effect  
16 as option students pursuant to the enrollment option program  
17 established in section 79-234;

18 (11) Converted contract option students means students  
19 who will be option students pursuant to the enrollment option  
20 program established in section 79-234 for the school fiscal year  
21 for which aid is being calculated and who would have been covered  
22 by a converted contract if the contract were still in effect and  
23 such school fiscal year is the first school fiscal year for which  
24 such contract is not in effect;

25 (12) Department means the State Department of Education;

1           (13) Distance education and telecommunications allowance  
2 means, for state aid calculated for school fiscal year 2007-08  
3 and each school fiscal year thereafter, eighty-five percent of  
4 the difference of the costs for (a) telecommunications services,  
5 (b) access to data transmission networks that transmit data to  
6 and from the school district, and (c) the transmission of data  
7 on such networks paid by the school districts in the local  
8 system as reported on the annual financial report for the most  
9 recently available complete data year minus the receipts from the  
10 federal Universal Service Fund pursuant to section 254 of the  
11 Telecommunications Act of 1996, 47 U.S.C. 254, as such section  
12 existed on January 1, 2006, for the school districts in the local  
13 system as reported on the annual financial report for the most  
14 recently available complete data year;

15           (14) District means any Class I, II, III, IV, V, or VI  
16 school district;

17           (15) Ensuing school fiscal year means the school fiscal  
18 year following the current school fiscal year;

19           (16) Equalization aid means the amount of assistance  
20 calculated to be paid to a local system pursuant to sections  
21 79-1008.01 to 79-1022 and 79-1022.02;

22           (17) Fall membership means the total membership in  
23 kindergarten through grade twelve attributable to the local system  
24 as reported on the fall school district membership reports for each  
25 district pursuant to section 79-528;

1           (18) Fiscal year means the state fiscal year which is the  
2 period from July 1 to the following June 30;

3           (19) Formula students means (a) for state aid certified  
4 pursuant to section 79-1022, the sum of fall membership from the  
5 school fiscal year immediately preceding the school fiscal year in  
6 which the aid is to be paid, multiplied by the average ratio of  
7 average daily membership to fall membership for the second school  
8 fiscal year immediately preceding the school fiscal year in which  
9 aid is to be paid and the prior two school fiscal years, plus  
10 qualified early childhood education fall membership plus tuitioned  
11 students from the school fiscal year immediately preceding the  
12 school fiscal year in which the aid is to be paid and (b) for final  
13 calculation of state aid pursuant to section 79-1065, the sum of  
14 average daily membership plus qualified early childhood education  
15 average daily membership plus tuitioned students from the school  
16 fiscal year immediately preceding the school fiscal year in which  
17 the aid was paid;

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

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

25           (22) General fund budget of expenditures means the total

1 budget of disbursements and transfers for general fund purposes as  
2 certified in the budget statement adopted pursuant to the Nebraska  
3 Budget Act, except that for purposes of the limitation imposed in  
4 section 79-1023, the calculation of Class I total allowable general  
5 fund budget of expenditures minus the special education budget of  
6 expenditures pursuant to section 79-1083.03, and the calculation  
7 pursuant to subdivision (2) of section 79-1027.01, the general fund  
8 budget of expenditures does not include any special grant funds,  
9 exclusive of local matching funds, received by a district subject  
10 to the approval of the department;

11 (23) General fund expenditures means all expenditures  
12 from the general fund;

13 (24) General fund operating expenditures means the total  
14 general fund expenditures minus categorical funds, tuition paid,  
15 transportation fees paid to other districts, adult education,  
16 summer school, community services, redemption of the principal  
17 portion of general fund debt service, retirement incentive plans,  
18 staff development assistance, ~~and~~ transfers from other funds into  
19 the general fund for the second school fiscal year immediately  
20 preceding the school fiscal year in which aid is to be paid as  
21 reported on the annual financial report prior to December 1 of  
22 the school fiscal year immediately preceding the school fiscal year  
23 in which aid is to be paid, and any legal expenses in excess  
24 of fifteen-hundredths of one percent of the formula need for the  
25 school fiscal year in which the expenses occurred;

1           (25) High school district means a school district  
2 providing instruction in at least grades nine through twelve;

3           (26) Income tax liability means the amount of the  
4 reported income tax liability for resident individuals pursuant  
5 to the Nebraska Revenue Act of 1967 less all nonrefundable credits  
6 earned and refunds made;

7           (27) Income tax receipts means the amount of income tax  
8 collected pursuant to the Nebraska Revenue Act of 1967 less all  
9 nonrefundable credits earned and refunds made;

10           (28) Limited English proficiency student means a student  
11 with limited English proficiency from the most recent data  
12 available on November 1 of the school fiscal year preceding  
13 the school fiscal year in which aid is to be paid;

14           (29) Local system means a Class VI district and the  
15 associated Class I districts or a Class II, III, IV, or V district  
16 and any affiliated Class I districts or portions of Class I  
17 districts and for school fiscal year 2008-09 and each school fiscal  
18 year thereafter, a learning community or a Class II, III, IV,  
19 or V district that is not a member of a learning community.  
20 The membership, expenditures, and resources of Class I districts  
21 that are affiliated with multiple high school districts will be  
22 attributed to local systems based on the percent of the Class I  
23 valuation that is affiliated with each high school district;

24           (30) Low-income child means (a) for school fiscal years  
25 prior to 2008-09, a child under nineteen years of age living in



1 a household having an annual adjusted gross income of fifteen  
2 thousand dollars or less for the second calendar year preceding  
3 the beginning of the school fiscal year for which aid is being  
4 calculated and (b) for school fiscal year 2008-09 and each school  
5 fiscal year thereafter, a child under nineteen years of age living  
6 in a household having an annual adjusted gross income for the  
7 second calendar year preceding the beginning of the school fiscal  
8 year for which aid is being calculated equal to or less than the  
9 maximum household income that would allow a student from a family  
10 of four people to be a free lunch and free milk student during the  
11 school fiscal year immediately preceding the school fiscal year for  
12 which aid is being calculated;

13 (31) Low-income students means the number of low-income  
14 children within the local system multiplied by the ratio of the  
15 formula students in the local system divided by the total children  
16 under nineteen years of age residing in the local system as derived  
17 from income tax information;

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

24 (33) Poverty students means the number of low-income  
25 students or the number of students who are free lunch and free milk

1 students in a local system, whichever is greater;

2 (34) Qualified early childhood education average daily  
3 membership means the product of the average daily membership for  
4 school fiscal year 2006-07 and each school fiscal year thereafter  
5 of students who will be eligible to attend kindergarten the  
6 following school year and are enrolled in an early childhood  
7 education program approved by the department pursuant to section  
8 79-1103 for such school district for such school year if: (a)  
9 The program is receiving a grant pursuant to such section for the  
10 third year; (b) the program has already received grants pursuant to  
11 such section for three years; or (c) the program has been approved  
12 pursuant to subsection (5) of section 79-1103 for such school year  
13 and the two preceding school years, including any such students  
14 in portions of any of such programs receiving an expansion grant,  
15 multiplied by the ratio of the actual instructional hours of the  
16 program divided by one thousand thirty-two;

17 (35) Qualified early childhood education fall membership  
18 means the product of membership on the last Friday in September  
19 2006 and each year thereafter of students who will be eligible  
20 to attend kindergarten the following school year and are enrolled  
21 in an early childhood education program approved by the department  
22 pursuant to section 79-1103 for such school district for such  
23 school year if: (a) The program is receiving a grant pursuant  
24 to such section for the third year; (b) the program has already  
25 received grants pursuant to such section for three years; or (c)

1 the program has been approved pursuant to subsection (5) of section  
2 79-1103 for such school year and the two preceding school years,  
3 including any such students in portions of any of such programs  
4 receiving an expansion grant, multiplied by the ratio of the  
5 planned instructional hours of the program divided by one thousand  
6 thirty-two;

7 (36) Regular route transportation means the  
8 transportation of students on regularly scheduled daily routes to  
9 and from the attendance center;

10 (37) Reorganized district means any district involved  
11 in a consolidation and currently educating students following  
12 consolidation;

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

15 (39) Special education means specially designed  
16 kindergarten through grade twelve instruction pursuant to section  
17 79-1125, and includes special education transportation;

18 (40) Special grant funds means the budgeted receipts for  
19 grants, including, but not limited to, Title I funds, Title VI  
20 funds, funds from the Education Innovation Fund, reimbursements  
21 for wards of the court, short-term borrowings including, but  
22 not limited to, registered warrants and tax anticipation notes,  
23 interfund loans, insurance settlements, and reimbursements to  
24 county government for previous overpayment. The state board shall  
25 approve a listing of grants that qualify as special grant funds;

1           (41) Special receipts allowance means the amount of  
2 special education, state ward, and accelerated or differentiated  
3 curriculum program receipts included in local system formula  
4 resources under subdivisions (7), (8), (16), and (17) of section  
5 79-1018.01 attributable to the school district;

6           (42) State aid means the amount of assistance paid to a  
7 district pursuant to the Tax Equity and Educational Opportunities  
8 Support Act;

9           (43) State board means the State Board of Education;

10           (44) State support means all funds provided to districts  
11 by the State of Nebraska for the general fund support of elementary  
12 and secondary education;

13           (45) Temporary aid adjustment factor means (a) for school  
14 fiscal years before school fiscal year 2007-08, one and one-fourth  
15 percent of the sum of the local system's transportation allowance,  
16 the local system's special receipts allowance, and the product  
17 of the local system's adjusted formula students multiplied by  
18 the average formula cost per student in the local system's  
19 cost grouping and (b) for school fiscal year 2007-08, one and  
20 one-fourth percent of the sum of the local system's transportation  
21 allowance, special receipts allowance, and distance education and  
22 telecommunications allowance and the product of the local system's  
23 adjusted formula students multiplied by the average formula cost  
24 per student in the local system's cost grouping;

25           (46) Transportation allowance means the lesser of (a)

1 each local system's general fund expenditures for regular route  
2 transportation and in lieu of transportation expenditures pursuant  
3 to section 79-611 in the second school fiscal year immediately  
4 preceding the school fiscal year in which aid is to be paid,  
5 but not including special education transportation expenditures or  
6 other expenditures previously excluded from general fund operating  
7 expenditures, or (b) the number of miles traveled in the second  
8 school fiscal year immediately preceding the school fiscal year in  
9 which aid is to be paid by vehicles owned, leased, or contracted  
10 by the district or the districts in the local system for the  
11 purpose of regular route transportation multiplied by four hundred  
12 percent of the mileage rate established by the Department of  
13 Administrative Services pursuant to section 81-1176 as of January 1  
14 of the most recently available complete data year added to in lieu  
15 of transportation expenditures pursuant to section 79-611 from the  
16 same data year;

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

21 (48) Tuitioned students means students in kindergarten  
22 through grade twelve of the district whose tuition is paid by the  
23 district to some other district or education agency.

24 Sec. 2. Original section 79-1003, Revised Statutes  
25 Supplement, 2007, is repealed.