

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1152

Introduced by Raikes, 25.

Read first time January 23, 2008

Committee: Education

A BILL

1 FOR AN ACT relating to special education; to amend sections
2 79-1110, 79-1115, 79-1119, and 79-1140, Reissue Revised
3 Statutes of Nebraska, and sections 79-1001, 79-1003, and
4 79-1007.02, Revised Statutes Supplement, 2007; to provide
5 for a special education allowance within the Tax Equity
6 and Educational Opportunities Support Act; to redefine
7 terms; to provide duties for the State Department of
8 Education relating to rates; to harmonize provisions; and
9 to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1001, Revised Statutes Supplement,
2 2007, is amended to read:

3 79-1001 Sections 79-1001 to 79-1033 and section 3 of
4 this act shall be known and may be cited as the Tax Equity and
5 Educational Opportunities Support Act.

6 Sec. 2. Section 79-1003, Revised Statutes Supplement,
7 2007, is amended to read:

8 79-1003 For purposes of the Tax Equity and Educational
9 Opportunities Support Act:

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

1 education and telecommunications allowance, elementary class size
2 allowance, and focus school and program allowance, and (d) for
3 school fiscal year 2009-10 and each school fiscal year thereafter,
4 the difference of the product of the general fund operating
5 expenditures as calculated pursuant to subdivision (24) of this
6 section multiplied by the cost growth factor for the school
7 district's cost grouping calculated pursuant to section 79-1007.10
8 minus the transportation allowance, special receipts allowance,
9 special education allowance, poverty allowance, limited English
10 proficiency allowance, distance education and telecommunications
11 allowance, elementary class size allowance, and focus school and
12 program allowance;

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

24 (3) Allocated income tax funds means the amount of
25 assistance paid to a local system pursuant to section 79-1005.01 or

1 79-1005.02 as adjusted by the minimum levy adjustment pursuant to
2 section 79-1008.02;

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

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

13 (6) Base fiscal year means the first school fiscal year
14 following the school fiscal year in which the reorganization or
15 unification occurred;

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

17 (8) Categorical funds means funds limited to a specific
18 purpose by federal or state law, including, but not limited to,
19 Title I funds, Title VI funds, federal vocational education funds,
20 federal school lunch funds, Indian education funds, Head Start
21 funds, and funds from the Education Innovation Fund;

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

25 (10) Converted contract means an expired contract that

1 was in effect for at least fifteen years for the education of
2 students in a nonresident district in exchange for tuition from
3 the resident district when the expiration of such contract results
4 in the nonresident district educating students who would have been
5 covered by the contract if the contract were still in effect
6 as option students pursuant to the enrollment option program
7 established in section 79-234;

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

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

16 (13) Distance education and telecommunications allowance
17 means, for state aid calculated for school fiscal year 2007-08
18 and each school fiscal year thereafter, eighty-five percent of
19 the difference of the costs for (a) telecommunications services,
20 (b) access to data transmission networks that transmit data to
21 and from the school district, and (c) the transmission of data
22 on such networks paid by the school districts in the local
23 system as reported on the annual financial report for the most
24 recently available complete data year minus the receipts from the
25 federal Universal Service Fund pursuant to section 254 of the

1 Telecommunications Act of 1996, 47 U.S.C. 254, as such section
2 existed on January 1, 2006, for the school districts in the local
3 system as reported on the annual financial report for the most
4 recently available complete data year;

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

7 (15) Ensuing school fiscal year means the school fiscal
8 year following the current school fiscal year;

9 (16) Equalization aid means the amount of assistance
10 calculated to be paid to a local system pursuant to sections
11 79-1008.01 to 79-1022 and 79-1022.02;

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

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

18 (19) Formula students means (a) for state aid certified
19 pursuant to section 79-1022, the sum of fall membership from the
20 school fiscal year immediately preceding the school fiscal year in
21 which the aid is to be paid, multiplied by the average ratio of
22 average daily membership to fall membership for the second school
23 fiscal year immediately preceding the school fiscal year in which
24 aid is to be paid and the prior two school fiscal years, plus
25 qualified early childhood education fall membership plus tuitioned

1 students from the school fiscal year immediately preceding the
2 school fiscal year in which the aid is to be paid and (b) for final
3 calculation of state aid pursuant to section 79-1065, the sum of
4 average daily membership plus qualified early childhood education
5 average daily membership plus tuitioned students from the school
6 fiscal year immediately preceding the school fiscal year in which
7 the aid was paid;

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

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

15 (22) General fund budget of expenditures means the total
16 budget of disbursements and transfers for general fund purposes as
17 certified in the budget statement adopted pursuant to the Nebraska
18 Budget Act, except that for purposes of the limitation imposed in
19 section 79-1023, the calculation of Class I total allowable general
20 fund budget of expenditures minus the special education budget of
21 expenditures pursuant to section 79-1083.03, and the calculation
22 pursuant to subdivision (2) of section 79-1027.01, the general fund
23 budget of expenditures does not include any special grant funds,
24 exclusive of local matching funds, received by a district subject
25 to the approval of the department;

1 (23) General fund expenditures means all expenditures
2 from the general fund;

3 (24) General fund operating expenditures means the total
4 general fund expenditures minus categorical funds, tuition paid,
5 transportation fees paid to other districts, adult education,
6 summer school, community services, redemption of the principal
7 portion of general fund debt service, retirement incentive plans,
8 staff development assistance, and transfers from other funds into
9 the general fund for the second school fiscal year immediately
10 preceding the school fiscal year in which aid is to be paid as
11 reported on the annual financial report prior to December 1 of the
12 school fiscal year immediately preceding the school fiscal year in
13 which aid is to be paid;

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

16 (26) Income tax liability means the amount of the
17 reported income tax liability for resident individuals pursuant
18 to the Nebraska Revenue Act of 1967 less all nonrefundable credits
19 earned and refunds made;

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

23 (28) Limited English proficiency student means a student
24 with limited English proficiency from the most recent data
25 available on November 1 of the school fiscal year preceding

1 the school fiscal year in which aid is to be paid;

2 (29) Local system means a Class VI district and the
3 associated Class I districts or a Class II, III, IV, or V district
4 and any affiliated Class I districts or portions of Class I
5 districts and for school fiscal year 2008-09 and each school fiscal
6 year thereafter, a learning community or a Class II, III, IV,
7 or V district that is not a member of a learning community.
8 The membership, expenditures, and resources of Class I districts
9 that are affiliated with multiple high school districts will be
10 attributed to local systems based on the percent of the Class I
11 valuation that is affiliated with each high school district;

12 (30) Low-income child means (a) for school fiscal years
13 prior to 2008-09, a child under nineteen years of age living in
14 a household having an annual adjusted gross income of fifteen
15 thousand dollars or less for the second calendar year preceding
16 the beginning of the school fiscal year for which aid is being
17 calculated and (b) for school fiscal year 2008-09 and each school
18 fiscal year thereafter, a child under nineteen years of age living
19 in a household having an annual adjusted gross income for the
20 second calendar year preceding the beginning of the school fiscal
21 year for which aid is being calculated equal to or less than the
22 maximum household income that would allow a student from a family
23 of four people to be a free lunch and free milk student during the
24 school fiscal year immediately preceding the school fiscal year for
25 which aid is being calculated;

1 (31) Low-income students means the number of low-income
2 children within the local system multiplied by the ratio of the
3 formula students in the local system divided by the total children
4 under nineteen years of age residing in the local system as derived
5 from income tax information;

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

12 (33) Poverty students means the number of low-income
13 students or the number of students who are free lunch and free milk
14 students in a local system, whichever is greater;

15 (34) Qualified early childhood education average daily
16 membership means the product of the average daily membership for
17 school fiscal year 2006-07 and each school fiscal year thereafter
18 of students who will be eligible to attend kindergarten the
19 following school year and are enrolled in an early childhood
20 education program approved by the department pursuant to section
21 79-1103 for such school district for such school year if: (a)
22 The program is receiving a grant pursuant to such section for the
23 third year; (b) the program has already received grants pursuant to
24 such section for three years; or (c) the program has been approved
25 pursuant to subsection (5) of section 79-1103 for such school year

1 and the two preceding school years, including any such students
2 in portions of any of such programs receiving an expansion grant,
3 multiplied by the ratio of the actual instructional hours of the
4 program divided by one thousand thirty-two;

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

20 (36) Regular route transportation means the
21 transportation of students on regularly scheduled daily routes to
22 and from the attendance center;

23 (37) Reorganized district means any district involved
24 in a consolidation and currently educating students following
25 consolidation;

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

3 (39) Special education means specially designed
4 kindergarten through grade twelve instruction pursuant to section
5 79-1125, and includes special education transportation;

6 (40) Special grant funds means the budgeted receipts for
7 grants, including, but not limited to, Title I funds, Title VI
8 funds, funds from the Education Innovation Fund, reimbursements
9 for wards of the court, short-term borrowings including, but
10 not limited to, registered warrants and tax anticipation notes,
11 interfund loans, insurance settlements, and reimbursements to
12 county government for previous overpayment. The state board shall
13 approve a listing of grants that qualify as special grant funds;

14 (41) Special receipts allowance means:

15 (a) For school fiscal years prior to school fiscal
16 year 2009-10, the amount of special education, state ward, and
17 accelerated or differentiated curriculum program receipts included
18 in local system formula resources under subdivisions (7), (8),
19 (16), and (17) of section 79-1018.01 attributable to the school
20 district; and

21 (b) For school fiscal year 2009-10 and each school
22 fiscal year thereafter, the amount of state ward and accelerated
23 or differentiated curriculum program receipts included in local
24 system formula resources under subdivisions (8) and (17) of section
25 79-1018.01 attributable to the school district;

1 (42) State aid means the amount of assistance paid to a
2 district pursuant to the Tax Equity and Educational Opportunities
3 Support Act;

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

5 (44) State support means all funds provided to districts
6 by the State of Nebraska for the general fund support of elementary
7 and secondary education;

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

20 (46) Transportation allowance means the lesser of (a)
21 each local system's general fund expenditures for regular route
22 transportation and in lieu of transportation expenditures pursuant
23 to section 79-611 in the second school fiscal year immediately
24 preceding the school fiscal year in which aid is to be paid,
25 but not including special education transportation expenditures or

1 other expenditures previously excluded from general fund operating
2 expenditures, or (b) the number of miles traveled in the second
3 school fiscal year immediately preceding the school fiscal year in
4 which aid is to be paid by vehicles owned, leased, or contracted
5 by the district or the districts in the local system for the
6 purpose of regular route transportation multiplied by four hundred
7 percent of the mileage rate established by the Department of
8 Administrative Services pursuant to section 81-1176 as of January 1
9 of the most recently available complete data year added to in lieu
10 of transportation expenditures pursuant to section 79-611 from the
11 same data year;

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

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

19 Sec. 3. For school fiscal year 2009-10 and each school
20 fiscal year thereafter, the department shall calculate a special
21 education allowance for each district which shall equal eighty-five
22 percent of the excess cost as defined in section 79-1119 for the
23 most recently available complete data year.

24 Sec. 4. Section 79-1007.02, Revised Statutes Supplement,
25 2007, is amended to read:

1 79-1007.02 For state aid calculated for school fiscal
2 year 1998-99 and each school fiscal year thereafter:

3 (1) Using data from the annual financial reports for the
4 second school fiscal year immediately preceding the school fiscal
5 year in which aid is to be paid, the annual statistical summary
6 reports for the school fiscal year immediately preceding the school
7 fiscal year in which aid is to be paid, the fall membership reports
8 and supplements thereto for the school fiscal year immediately
9 preceding the school fiscal year in which aid is to be paid,
10 and the school district census as reported under sections 79-524
11 and 79-578 for the second school fiscal year preceding the school
12 fiscal year in which aid is to be paid, the department shall
13 divide the local systems into three cost groupings prior to the
14 certification of state aid based upon the following criteria:

15 (a) The very sparse cost grouping will consist of local
16 systems that have (i) (A) less than one-half student per square
17 mile in each county in which each high school attendance center
18 is located, based on the school district census, (B) less than
19 one formula student per square mile in the local system, and (C)
20 more than fifteen miles between the high school attendance center
21 and the next closest high school attendance center on paved roads
22 or (ii) (A) more than four hundred fifty square miles in the local
23 system, (B) less than one-half student per square mile in the local
24 system, and (C) more than fifteen miles between each high school
25 attendance center and the next closest high school attendance

1 center on paved roads;

2 (b) The sparse cost grouping will consist of local
3 systems that do not qualify for the very sparse cost grouping but
4 which meet the following criteria:

5 (i) (A) Less than two students per square mile in the
6 county in which each high school is located, based on the school
7 district census, (B) less than one formula student per square mile
8 in the local system, and (C) more than ten miles between each
9 high school attendance center and the next closest high school
10 attendance center on paved roads;

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

15 (iii) (A) Less than one and one-half formula students per
16 square mile in the local system and (B) more than two hundred
17 seventy-five square miles in the local system; or

18 (iv) (A) Less than two formula students per square mile in
19 the local system and (B) the local system includes an area equal
20 to ninety-five percent or more of the square miles in the largest
21 county in which a high school attendance center is located in the
22 local system; and

23 (c) The standard cost grouping will consist of local
24 systems that do not qualify for the very sparse or the sparse cost
25 groupings.

1 For purposes of subdivision (1) of this section, if a
2 local system did not operate and offer instruction in grades nine
3 through twelve within the boundaries of the local system during the
4 school fiscal year immediately preceding the school fiscal year in
5 which aid is to be paid, the local system shall not be considered
6 to have a high school attendance center;

7 (2) (a) The department shall calculate the average formula
8 cost per student in each cost grouping by dividing the total
9 estimated general fund operating expenditures for the cost grouping
10 by the difference between the total adjusted formula students for
11 all local systems in the cost grouping minus (i) the adjusted
12 formula students attributed to early childhood education programs
13 approved by the department pursuant to section 79-1103 for the
14 first two school fiscal years for which students attributed to
15 early childhood education programs approved by the department
16 pursuant to section 79-1103 are being included in the calculation
17 of state aid for the local system and (ii) for the first two
18 school fiscal years immediately following the school fiscal year in
19 which a district in the local system received an expansion grant
20 pursuant to section 79-1103, the difference between the adjusted
21 formula students attributed to early childhood education programs
22 approved by the department pursuant to section 79-1103 for the
23 school fiscal year immediately following the school fiscal year in
24 which a district in the local system received an expansion grant
25 minus the adjusted formula students attributed to early childhood

1 education programs approved by the department pursuant to section
2 79-1103 for the school fiscal year in which a district in the
3 local system received an expansion grant. For the calculation of
4 state aid for school fiscal year 1999-00 and for each school fiscal
5 year thereafter, the average formula cost per student in each cost
6 grouping shall not be recalculated for the final calculation of
7 state aid pursuant to section 79-1065. The calculation of total
8 adjusted formula students for purposes of this subdivision shall
9 take into account the requirements of subdivision (2) of section
10 79-1007.01. For school fiscal years prior to school fiscal year
11 2008-09, the total estimated general fund operating expenditures
12 for the cost grouping is equal to the total adjusted general fund
13 operating expenditures for all local systems in the cost grouping
14 multiplied by a cost growth factor. For school fiscal year 2008-09
15 and each school fiscal year thereafter, the total estimated general
16 fund operating expenditures for the cost grouping is equal to the
17 total adjusted general fund operating expenditures for all local
18 systems in the cost grouping.

19 (b) For school fiscal years prior to school fiscal year
20 2008-09, the cost growth factor for each cost grouping is equal to
21 the sum of: (i) One; plus (ii) the product of two times the ratio
22 of the difference of (A) the formula students attributable to the
23 cost grouping without weighting or adjustment pursuant to section
24 79-1007.01 minus the qualified early childhood education fall
25 membership attributable to the cost grouping without such weighting

1 or adjustment for state aid certified pursuant to section 79-1022
2 minus (B) the difference of the sum of the average daily membership
3 plus tuitioned students attributable to the cost grouping for the
4 most recently available complete data year minus the qualified
5 early childhood education average daily membership attributable to
6 the cost grouping without such weighting or adjustment for the most
7 recently available complete data year divided by the difference of
8 the sum of the average daily membership plus tuitioned students
9 attributable to the cost grouping for the most recently available
10 complete data year minus the qualified early childhood education
11 average daily membership attributable to the cost grouping without
12 such weighting or adjustment for the most recently available
13 complete data year, except that the ratio shall not be less than
14 zero; plus (iii) the basic allowable growth rate pursuant to
15 section 79-1025 for the school fiscal year in which the aid is to
16 be distributed; plus (iv) the basic allowable growth rate pursuant
17 to section 79-1025 for the school fiscal year immediately preceding
18 the school fiscal year in which the aid is to be distributed;
19 plus (v) one-half of any additional growth rate allowed by special
20 action of school boards for the school fiscal year in which the
21 aid is to be distributed as determined for the school fiscal
22 year immediately preceding the school fiscal year when aid is to
23 be distributed; plus (vi) one-half of any additional growth rate
24 allowed by special action of the school boards for the school
25 fiscal year immediately preceding the school fiscal year when the

1 aid is to be distributed;

2 (3) For school fiscal years 2002-03 through 2006-07, each
3 local system's formula need shall be calculated by subtracting
4 the temporary aid adjustment factor from the sum of the local
5 system's transportation allowance, the local system's special
6 receipts allowance, and the product of the local system's adjusted
7 formula students multiplied by the average formula cost per student
8 in the local system's cost grouping. The calculation of total
9 adjusted formula students for purposes of this subdivision shall
10 take into account the requirements of subdivision (2) of section
11 79-1007.01;

12 (4) For school fiscal year 2007-08, each local system's
13 formula need shall be calculated by subtracting the temporary aid
14 adjustment factor from the sum of the local system's transportation
15 allowance, special receipts allowance, and distance education and
16 telecommunications allowance and the product of the local system's
17 adjusted formula students multiplied by the average formula cost
18 per student in the local system's cost grouping. The calculation
19 of total adjusted formula students for purposes of this subdivision
20 shall take into account the requirements of subdivision (2) of
21 section 79-1007.01; ~~and~~

22 (5) For school fiscal year 2008-09, ~~and each school~~
23 ~~fiscal year thereafter,~~ each school district's formula need
24 shall equal the greater of (a) the difference of the sum of
25 the school district's transportation allowance, elementary class

1 size allowance, focus school and program allowance, limited
2 English proficiency allowance, poverty allowance, special receipts
3 allowance, and distance education and telecommunications allowance
4 plus the product of the school district's adjusted formula students
5 multiplied by the average formula cost per student in the school
6 district's local system cost grouping minus the sum of the limited
7 English proficiency allowance correction and poverty allowance
8 correction or (b) if the school district's general fund levy was
9 at or above ninety-five percent of the school district's maximum
10 levy pursuant to section 77-3442, the school district's prior year
11 formula need multiplied by one hundred percent. The calculation of
12 total adjusted formula students for purposes of this subdivision
13 shall take into account the requirements of subdivision (2) of
14 section 79-1007.03; and -

15 (6) For school fiscal year 2009-10 and each school
16 fiscal year thereafter, each school district's formula need
17 shall equal the greater of (a) the difference of the sum of
18 the school district's transportation allowance, elementary class
19 size allowance, focus school and program allowance, limited
20 English proficiency allowance, poverty allowance, special education
21 allowance, special receipts allowance, and distance education
22 and telecommunications allowance plus the product of the school
23 district's adjusted formula students multiplied by the average
24 formula cost per student in the school district's local system
25 cost grouping minus the sum of the limited English proficiency

1 allowance correction and poverty allowance correction or (b) if the
2 school district's general fund levy was at or above ninety-five
3 percent of the school district's maximum levy pursuant to section
4 77-3442, the school district's prior year formula need multiplied
5 by one hundred percent. The calculation of total adjusted formula
6 students for purposes of this subdivision shall take into account
7 the requirements of subdivision (2) of section 79-1007.03.

8 Sec. 5. Section 79-1110, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 79-1110 Sections 79-1110 to 79-1178 and section 7 of this
11 act shall be known and may be cited as the Special Education Act.

12 Sec. 6. Section 79-1115, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-1115 Allowable costs means:

15 (1) For school fiscal years prior to school fiscal year
16 1999-00, salaries, wages, benefits, and maintenance, supplies,
17 travel, and other expenses essential to carry out the provisions
18 for special education and support services; and

19 (2) For costs incurred prior to school fiscal year
20 ~~1999-00 and each school fiscal year thereafter,~~ 2008-09, salaries,
21 wages, benefits, any medical expenditure by a school district
22 for purposes of providing individualized education ~~plan~~ program
23 services for a special education student and health protection to
24 the provider of the services, and maintenance, supplies, travel,
25 and other expenses essential to carry out the provisions for

1 special education and support services; and -

2 (3) For costs incurred for school fiscal year 2008-09 and
3 each school fiscal year thereafter, salaries, wages, benefits, any
4 medical expenditure by a school district for purposes of providing
5 individualized education program services for a special education
6 student and health protection to the provider of the services,
7 approved special education costs for service agencies, maintenance,
8 supplies, travel, and other expenses essential to carry out the
9 provisions for special education and support services.

10 Sec. 7. Section 79-1119, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 79-1119 Excess cost means the difference between the
13 ~~total~~ of the allowable cost of the special education program for
14 a school district excluding residential care and minus the product
15 of the number of students in the special education program who
16 spend less than twenty-five percent of their educational day with
17 their regular education peers multiplied by the adjusted average
18 per pupil cost of the preceding year for ~~the~~ such school district.
19 ~~of residence of each child.~~

20 Sec. 8. The State Department of Education shall annually
21 approve rates for services provided by service agencies. For an
22 agency that provides services in the agency's facilities, up to
23 five percent of such approved rate may account for facility and
24 overhead costs.

25 Sec. 9. Section 79-1140, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 79-1140 Except as provided in sections 79-232 to 79-246,
3 each school district shall pay an amount equal to the ~~average per~~
4 ~~pupil cost~~ approved rate for services of the service agency ~~of~~
5 ~~the preceding year~~ or the cost as agreed upon pursuant to the
6 contract to the agency providing the educational program for every
7 child with a disability who is a resident of the district and
8 is attending an educational program not operated by the school
9 district, including programs operated by the State Department of
10 Education, the Department of Health and Human Services, and any
11 other service agency whose programs are approved by the State
12 Department of Education.

13 Sec. 10. Original sections 79-1110, 79-1115, 79-1119,
14 and 79-1140, Reissue Revised Statutes of Nebraska, and sections
15 79-1001, 79-1003, and 79-1007.02, Revised Statutes Supplement,
16 2007, are repealed.