

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 455**

Introduced by White, 8

Read first time January 16, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities  
2 Support Act; to amend section 79-1028, Revised Statutes  
3 Cumulative Supplement, 2006, as affected by Referendum  
4 2006, No. 422; to permit school districts to exceed the  
5 applicable allowable growth rate as prescribed; and to  
6 repeal the original section.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 79-1028, Revised Statutes Cumulative  
 2 Supplement, 2006, as affected by Referendum 2006, No. 422, is  
 3 amended to read:

4           79-1028 (1) A Class II, III, IV, V, or VI school  
 5 district may exceed its applicable allowable growth rate for (a)  
 6 expenditures in support of a service which is the subject of  
 7 an agreement or a modification of an existing agreement whether  
 8 operated by one of the parties to the agreement or an independent  
 9 joint entity or joint public agency, (b) expenditures to pay for  
 10 repairs to infrastructure damaged by a natural disaster which is  
 11 declared a disaster emergency pursuant to the Emergency Management  
 12 Act, (c) expenditures to pay for judgments, except judgments  
 13 or orders from the Commission of Industrial Relations, obtained  
 14 against a school district which require or obligate a school  
 15 district to pay such judgment, to the extent such judgment is not  
 16 paid by liability insurance coverage of a school district, (d)  
 17 expenditures to pay for sums agreed to be paid by a school district  
 18 to certificated employees in exchange for a voluntary termination  
 19 of employment, or (e) expenditures to pay for lease-purchase  
 20 contracts approved on or after July 1, 1997, and before July  
 21 1, 1998, to the extent the lease payments were not budgeted  
 22 expenditures for fiscal year 1997-98.

23           (2) A Class II, III, IV, V, or VI district may exceed its  
 24 applicable allowable growth rate by a specific dollar amount if the  
 25 district projects an increase in formula students in the district

1 over the current school year greater than twenty-five students  
 2 or greater than those listed in the schedule provided in this  
 3 subsection, whichever is less. Districts shall project increases  
 4 in formula students on forms prescribed by the department. The  
 5 department shall approve, deny, or modify the projected increases.

6	Average daily	Projected increase
7	membership of	of formula students
8	district	by percentage
9	0 - 50	10
10	50.01 - 250	5
11	250.01 - 1,000	3
12	1,000.01 and over	1

13 The department shall compute the district's estimated  
 14 allowable budget per pupil using the budgeted general fund  
 15 expenditures found on the budget statement for the current school  
 16 year divided by the number of formula students in the current  
 17 school year and multiplied by the district's applicable allowable  
 18 growth rate. The resulting allowable budget per pupil shall be  
 19 multiplied by the projected formula students to arrive at the  
 20 estimated budget needs for the ensuing year. The department  
 21 shall allow the district to increase its general fund budget  
 22 of expenditures for the ensuing school year by the amount  
 23 necessary to fund the estimated budget needs of the district  
 24 as computed pursuant to this subsection. On or before July  
 25 1, the department shall make available to districts which have

1 been allowed additional growth pursuant to this subsection the  
2 necessary document to recalculate the actual formula students of  
3 such district. Such document shall be filed with the department  
4 under subsection (1) of section 79-1024.

5 (3) A Class II, III, IV, V, or VI district may exceed  
6 its applicable allowable growth rate by a specific dollar amount  
7 if construction, expansion, or alteration of district buildings  
8 will cause an increase in building operation and maintenance  
9 costs of at least five percent. The department shall document  
10 the projected increase in building operation and maintenance costs  
11 and may allow a Class II, III, IV, V, or VI district to exceed  
12 its applicable allowable growth rate by the amount necessary to  
13 fund such increased costs. The department shall compute the actual  
14 increased costs for the school year and shall notify the district  
15 on or before July 1 of the recovery of the additional growth  
16 pursuant to this subsection.

17 (4) A Class II, III, IV, V, or VI district may exceed its  
18 applicable allowable growth rate by a specific dollar amount if the  
19 district demonstrates to the satisfaction of the department that  
20 it will exceed its applicable allowable growth rate as a result  
21 of costs pursuant to the Retirement Incentive Plan authorized  
22 in section 79-855 or the Staff Development Assistance authorized  
23 in section 79-856. The department shall compute the amount by  
24 which the increased cost of such program or programs exceeds the  
25 district's applicable allowable growth rate and shall allow the

1 district to increase its general fund expenditures by such amount  
2 for that fiscal year.

3 (5) A Class II, III, IV, or V district may exceed its  
4 applicable allowable growth rate by the specific dollar amount of  
5 incentive payments or base fiscal year incentive payments to be  
6 received in such school fiscal year pursuant to section 79-1011.

7 (6) A Class II, III, IV, V, or VI district may exceed  
8 its applicable allowable growth rate by a specific dollar amount  
9 in any year for which the state aid calculation for the local  
10 system includes students in the qualified early childhood education  
11 fall membership of the district for the first time or for a year  
12 in which an early childhood education program of the district is  
13 receiving an expansion grant. The department shall compute the  
14 amount by which the district may exceed the district's applicable  
15 allowable growth rate by multiplying the cost grouping cost  
16 per student for the applicable cost grouping by the district's  
17 adjusted formula students attributed to early childhood education  
18 programs if students are included in the district's qualified  
19 early childhood education fall membership for the first time or by  
20 the district's adjusted formula students attributed to such early  
21 childhood education programs minus the district's adjusted formula  
22 students attributed to such early childhood education programs for  
23 the prior school fiscal year if a program is receiving an expansion  
24 grant in the school fiscal year for which the fall membership is  
25 measured. The department shall allow the district to increase its

1 general fund expenditures by such amount for such school fiscal  
2 year.

3 (7) For school fiscal year 2005-06, a Class II, III, IV,  
4 V, or VI district may exceed its applicable allowable growth rate  
5 by a specific dollar amount not to exceed seventy-four hundredths  
6 percent of the amount budgeted for employee salaries for such  
7 school fiscal year. For school fiscal year 2006-07, a Class II,  
8 III, IV, V, or VI district may exceed its applicable allowable  
9 growth rate by a specific dollar amount not to exceed fifty-nine  
10 hundredths percent of the amount budgeted for employee salaries for  
11 such school fiscal year.

12 (8) A Class II, III, IV, or V district that is a  
13 member of a learning community may exceed its applicable allowable  
14 growth rate for the first school fiscal year in which the school  
15 district will be a member of a learning community for the full  
16 school fiscal year by an amount equal to anticipated increases in  
17 transportation expenditures necessary to meet the requirements of  
18 subsection (2) of section 79-611 as approved by the department. The  
19 department shall approve, deny, or modify the amount allowed  
20 for anticipated increases in transportation expenditures. The  
21 department shall compute the actual increase in transportation  
22 expenditures necessary to meet the requirements of subsection (2)  
23 of section 79-611 for such school fiscal year and shall, if needed,  
24 modify the district's applicable allowable growth rate for the  
25 ensuing school fiscal year.

1           (9) For school fiscal year 2008-09, a Class II, III,  
2 IV, or V district may exceed its applicable allowable growth  
3 rate by a specific dollar amount if the sum of the poverty  
4 allowance, elementary class size allowance, focus school and  
5 program allowance, and limited English proficiency allowance for  
6 the school district for school fiscal year 2008-09 exceeds the  
7 poverty weightings plus limited English proficiency weightings  
8 multiplied by the cost grouping cost per student for the school  
9 district for school fiscal year 2007-08. The department shall  
10 compute the amount by which the district may exceed the applicable  
11 allowable growth rate by subtracting the product of the sum of  
12 the poverty weightings and limited English proficiency weightings  
13 for school fiscal year 2007-08 multiplied by the average formula  
14 cost per student in the school district's cost grouping for school  
15 fiscal year 2007-08 from the sum of the school fiscal year 2008-09  
16 poverty allowance, elementary class size allowance, focus school  
17 and program allowance, and limited English proficiency allowance  
18 for the school district. The department shall allow the district to  
19 increase its general fund expenditures by such amount for school  
20 fiscal year 2008-09.

21           (10) For school fiscal year 2009-10 and each school  
22 fiscal year thereafter, a Class II, III, IV, or V district may  
23 exceed its applicable allowable growth rate by a specific dollar  
24 amount if the sum of the poverty allowance, elementary class size  
25 allowance, focus school and program allowance, and limited English

1 proficiency allowance for the school district has grown at a rate  
 2 higher than the applicable allowable growth rate of the district.  
 3 The department shall compute the amount by which the district  
 4 may exceed the applicable allowable growth rate by subtracting  
 5 the product of the sum of the poverty allowance, elementary class  
 6 size allowance, focus school and program allowance, and limited  
 7 English proficiency allowance for the immediately preceding school  
 8 fiscal year multiplied by the sum of one plus the applicable  
 9 allowable growth rate to be exceeded from the sum of the poverty  
 10 allowance, elementary class size allowance, focus school and  
 11 program allowance, and limited English proficiency allowance for  
 12 the district for the school fiscal year for which the applicable  
 13 allowable growth rate would be exceeded. The department shall allow  
 14 the district to increase its general fund expenditures by such  
 15 amount for the applicable school fiscal year.

16 (11) A Class II, III, IV, or V school district may  
 17 exceed its applicable allowable growth rate by a specific dollar  
 18 amount not to exceed the amount received during such school fiscal  
 19 year from educational entities as defined in section 79-1332 for  
 20 providing distance education courses through the Distance Education  
 21 Council to such educational entities.

22 (12) A Class II, III, IV, or V school district may exceed  
 23 its applicable allowable growth rate for school fiscal year 2007-08  
 24 by a specific dollar amount equal to the amount paid in school  
 25 fiscal year 2006-07 to any distance education consortium in which



1 the school district was participating pursuant to an interlocal  
2 agreement.

3 (13) A Class II, III, IV, V, or VI district may exceed  
4 its applicable allowable growth rate for any year in which the  
5 increase in its energy costs over the preceding year exceeds the  
6 percentage increase in the Consumer Price Index for All Urban  
7 Consumers published by the Federal Bureau of Labor Statistics.  
8 The department shall document the increases based on information  
9 supplied by the district and may allow the district to exceed its  
10 applicable allowable growth rate by the amount necessary to fund  
11 such costs.

12 For purposes of this subsection, energy costs includes  
13 costs to purchase gasoline, oil, diesel fuel, electricity, propane,  
14 heating oil, natural gas, and any other similar substances  
15 necessary for district transportation vehicles and for heating  
16 and cooling district facilities.

17 (14) A Class II, III, IV, V, or VI district may exceed  
18 its applicable allowable growth rate for any year in which the  
19 increase in its health insurance costs over the preceding year  
20 exceed the percentage increase in the Consumer Price Index for  
21 All Urban Consumers published by the Federal Bureau of Labor  
22 Statistics. The department shall compute the actual increased costs  
23 for the school year and shall allow the district to increase its  
24 general fund expenditures by such amount for that fiscal year.

25 Sec. 2. Original section 79-1028, Revised Statutes

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- 1 Cumulative Supplement, 2006, as affected by Referendum 2006, No.
- 2 422, is repealed.