

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 521

Introduced by Howard, 9

Read first time January 17, 2007

Committee: Education

A BILL

1 FOR AN ACT relating to education; to amend section 79-528,
2 Revised Statutes Cumulative Supplement, 2006, and section
3 79-1003, Revised Statutes Cumulative Supplement, 2006,
4 as affected by Referendum 2006, No. 422; to prescribe
5 certain report contents; to modify terms; to harmonize
6 provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-528, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 79-528 (1)(a) On or before July 20 in all school
4 districts, the superintendent or head administrator shall file
5 with the State Department of Education a report under oath showing
6 the number of children from five through eighteen years of age
7 belonging to the school district according to the census taken as
8 provided in sections 79-524 and 79-578. The report shall identify
9 the number of boys and the number of girls in each of the
10 respective age categories. On or before July 20, school districts
11 that are members of learning communities shall provide the learning
12 community coordinating council with a copy of the report filed
13 with the department. On or before August 1, each learning community
14 coordinating council shall file with the department a report
15 showing the number of children from five through eighteen years
16 of age belonging to the member school districts according to the
17 school district reports filed with the department.

18 (b) Each Class I school district which is part of a Class
19 VI school district offering instruction (i) in grades kindergarten
20 through five shall report children from five through ten years
21 of age, (ii) in grades kindergarten through six shall report
22 children from five through eleven years of age, and (iii) in grades
23 kindergarten through eight shall report children from five through
24 thirteen years of age.

25 (c) Each Class VI school district offering instruction

1 (i) in grades six through twelve shall report children who are
2 eleven through eighteen years of age, (ii) in grades seven through
3 twelve shall report children who are twelve through eighteen years
4 of age, and (iii) in grades nine through twelve children who are
5 fourteen through eighteen years of age.

6 (d) Each Class I district which has affiliated in whole
7 or in part shall report children from five through thirteen years
8 of age.

9 (e) Each Class II, III, IV, or V district shall report
10 children who are fourteen through eighteen years of age residing in
11 Class I districts or portions thereof which have affiliated with
12 such district.

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

16 (2) On or before June 30 the superintendent or head
17 administrator of each school district shall file with the
18 Commissioner of Education a report under oath described as an
19 end-of-the-school-year annual statistical summary showing (a) the
20 number of children attending school during the year under five
21 years of age, (b) the length of time the school has been taught
22 during the year by a qualified teacher, (c) the length of time
23 taught by each substitute teacher, and (d) such other information
24 as the Commissioner of Education directs. On or before June 30,
25 school districts that are members of learning communities shall

1 also provide the learning community coordinating council with a
2 copy of the report filed with the commissioner. On or before July
3 15, each learning community coordinating council shall file with
4 the commissioner a report showing the number of children from
5 five through eighteen years of age belonging to the member school
6 districts according to the school district reports filed with the
7 commissioner.

8 (3) (a) On or before November 1 the superintendent or
9 head administrator of each school district shall submit to the
10 Commissioner of Education, to be filed in his or her office, a
11 report under oath described as the annual financial report showing
12 (i) the amount of money received from all sources during the year
13 and the amount of money expended by the school district during
14 the year, (ii) the amount of bonded indebtedness, (iii) such other
15 information as shall be necessary to fulfill the requirements
16 of the Tax Equity and Educational Opportunities Support Act
17 and section 79-1114, and (iv) such other information as the
18 Commissioner of Education directs.

19 (b) On or before November 1, school districts that are
20 members of learning communities shall also provide the learning
21 community coordinating council with a copy of the report submitted
22 to the commissioner. On or before November 15, each learning
23 community coordinating council shall submit to the commissioner,
24 to be filed in his or her office, a report described as the
25 annual financial report showing (i) the aggregate amount of money

1 received from all sources during the year for all member school
2 districts and the aggregate amount of money expended by member
3 school districts during the year, (ii) the aggregate amount of
4 bonded indebtedness for all member school districts, (iii) such
5 other aggregate information as shall be necessary to fulfill
6 the requirements of the Tax Equity and Educational Opportunities
7 Support Act and section 79-1114 for all member school districts,
8 and (iv) such other aggregate information as the Commissioner of
9 Education directs for all member school districts.

10 (4) (a) On or before October 15 of each year, the
11 superintendent or head administrator of each school district shall
12 deliver to the department the fall school district membership
13 report, which report shall include the number of children from
14 birth through twenty years of age enrolled in the district on the
15 last Friday in September of a given school year. The report shall
16 enumerate (i) students by grade level, (ii) school district levies
17 and total assessed valuation for the current fiscal year, ~~and~~ (iii)
18 the number of such students who are free lunch and free milk
19 students as defined in section 79-1003, (iv) the number of such
20 students who are limited English proficiency students as defined in
21 section 79-1003, and (v) such other information as the Commissioner
22 of Education directs.

23 (b) On or before October 15 of each year, school
24 districts that are members of learning communities shall also
25 provide the learning community coordinating council with a copy of

1 the report delivered to the department. On or before October 31
2 of each year, each learning community coordinating council shall
3 deliver to the department the fall learning community membership
4 report, which report shall include the aggregate number of children
5 from birth through twenty years of age enrolled in the member
6 school districts on the last Friday in September of a given
7 school year for all member school districts. The report shall
8 enumerate (i) the aggregate students by grade level for all member
9 school districts, (ii) learning community levies and total assessed
10 valuation for the current fiscal year, and (iii) the aggregate
11 number of such students who are free lunch and free milk students,
12 as defined in section 79-1003, for all member school districts,
13 (iv) the aggregate number of such students who are limited English
14 proficiency students, as defined in section 79-1003, for all
15 member school districts, and (v) such other information as the
16 Commissioner of Education directs.

17 (c) When any school district or learning community
18 fails to submit its fall membership report by November 1, the
19 commissioner shall, after notice to the district and an opportunity
20 to be heard, direct that any state aid granted pursuant to the
21 Tax Equity and Educational Opportunities Support Act be withheld
22 until such time as the report is received by the department. In
23 addition, the commissioner shall direct the county treasurer to
24 withhold all school money belonging to the school district or
25 learning community until such time as the commissioner notifies the

1 county treasurer of receipt of such report. The county treasurer
2 shall withhold such money. For school districts that are members
3 of learning communities, a determination of school money belonging
4 to the district shall be based on the proportionate share of state
5 aid and property tax receipts allocated to the school district
6 by the learning community coordinating council, and the treasurer
7 of the learning community coordinating council shall withhold any
8 such school money in the possession of the learning community from
9 the school district. If a school district that is a member of
10 a learning community fails to provide a copy of the report to
11 the learning community coordinating council on or before October
12 15, the learning community coordinating council shall complete the
13 fall learning community membership report with information from the
14 reports received from other member school districts.

15 Sec. 2. Section 79-1003, Revised Statutes Cumulative
16 Supplement, 2006, as affected by Referendum 2006, No. 422, is
17 amended to read:

18 79-1003 For purposes of the Tax Equity and Educational
19 Opportunities Support Act:

20 (1) Adjusted general fund operating expenditures means
21 (a) for school fiscal years before school fiscal year 2007-08,
22 general fund operating expenditures as calculated pursuant to
23 subdivision (24) of this section minus the transportation allowance
24 and minus the special receipts allowance, (b) for school fiscal
25 year 2007-08, general fund operating expenditures as calculated

1 pursuant to subdivision (24) of this section minus the sum of
2 the transportation, special receipts, and distance education and
3 telecommunications allowances, and (c) for school fiscal year
4 2008-09 and each school fiscal year thereafter, the difference
5 of the product of the general fund operating expenditures as
6 calculated pursuant to subdivision (24) of this section multiplied
7 by the cost growth factor for the school district's cost grouping
8 calculated pursuant to section 79-1007.10 minus the transportation
9 allowance, special receipts allowance, poverty allowance, limited
10 English proficiency allowance, elementary class size allowance, and
11 focus school and program allowance;

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

23 (3) Allocated income tax funds means the amount of
24 assistance paid to a local system pursuant to section 79-1005.01 or
25 79-1005.02 as adjusted by the minimum levy adjustment pursuant to

1 section 79-1008.02;

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

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

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

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

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

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

24 (10) Converted contract means an expired contract that
25 was in effect for at least fifteen years for the education of

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

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

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

15 (13) Distance education and telecommunications allowance
16 means, for state aid calculated for school fiscal year 2007-08
17 and each school fiscal year thereafter, eighty-five percent of
18 the difference of the costs for (a) telecommunications services,
19 (b) access to data transmission networks that transmit data to
20 and from the school district, and (c) the transmission of data
21 on such networks paid by the school districts in the local
22 system as reported on the annual financial report for the most
23 recently available complete data year minus the receipts from the
24 federal Universal Service Fund pursuant to section 254 of the
25 Telecommunications Act of 1996, 47 U.S.C. 254, as such section

1 existed on January 1, 2006, for the school districts in the local
2 system as reported on the annual financial report for the most
3 recently available complete data year;

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

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

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

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

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

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

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

7 (20) Free lunch and free milk student means a student who
8 qualified for free lunches or free milk ~~from the most recent data~~
9 ~~available on November 1~~ as reported in the fall membership of the
10 school fiscal year immediately preceding the school fiscal year in
11 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;

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

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

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

20 (28) Limited English proficiency student means a student
21 with limited English proficiency ~~from the most recent data~~
22 ~~available on November 1~~ as reported in the fall membership of
23 the school fiscal year preceding the school fiscal year in which
24 aid is to be paid;

25 (29) Local system means a Class VI district and the

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

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

24 (31) Low-income students means the number of low-income
25 children within the local system multiplied by the ratio of the

1 formula students in the local system divided by the total children
2 under nineteen years of age residing in the local system as derived
3 from income tax information;

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

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

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

1 multiplied by the ratio of the actual instructional hours of the
2 program divided by one thousand thirty-two;

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

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

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

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

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

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

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

17 (42) State aid means the amount of assistance paid to a
18 district pursuant to the Tax Equity and Educational Opportunities
19 Support Act;

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

21 (44) State support means all funds provided to districts
22 by the State of Nebraska for the general fund support of elementary
23 and secondary education;

24 (45) Temporary aid adjustment factor means (a) for school
25 fiscal years before school fiscal year 2007-08, one and one-fourth

1 percent of the sum of the local system's transportation allowance,
2 the local system's special receipts allowance, and the product
3 of the local system's adjusted formula students multiplied by
4 the average formula cost per student in the local system's cost
5 grouping and (b) for school fiscal year 2007-08 and each school
6 fiscal year thereafter, one and one-fourth percent of the sum
7 of the local system's transportation allowance, special receipts
8 allowance, and distance education and telecommunications allowance
9 and the product of the local system's adjusted formula students
10 multiplied by the average formula cost per student in the local
11 system's cost grouping;

12 (46) Transportation allowance means the lesser of (a)
13 each local system's general fund expenditures for regular route
14 transportation and in lieu of transportation expenditures pursuant
15 to section 79-611 in the second school fiscal year immediately
16 preceding the school fiscal year in which aid is to be paid,
17 but not including special education transportation expenditures or
18 other expenditures previously excluded from general fund operating
19 expenditures, or (b) the number of miles traveled in the second
20 school fiscal year immediately preceding the school fiscal year in
21 which aid is to be paid by vehicles owned, leased, or contracted
22 by the district or the districts in the local system for the
23 purpose of regular route transportation multiplied by four hundred
24 percent of the mileage rate established by the Department of
25 Administrative Services pursuant to section 81-1176 as of January 1

1 of the most recently available complete data year added to in lieu
2 of transportation expenditures pursuant to section 79-611 from the
3 same data year;

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

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

11 Sec. 3. Original sections 79-528, Revised Statutes
12 Cumulative Supplement, 2006, and section 79-1003, Revised Statutes
13 Cumulative Supplement, 2006, as affected by Referendum 2006, No.
14 422, are repealed.