

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1014

FINAL READING

Introduced by Haar, 21; Avery, 28; Carlson, 38; Giese, 17; McGill, 26; Mello, 5; Cook, 13.

Read first time January 20, 2010

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 79-1018.01
2 and 79-1035, Reissue Revised Statutes of Nebraska, and
3 section 79-1028.01, Revised Statutes Supplement, 2009;
4 to provide for teacher performance pay; to change
5 local system formula resources and maximum expenditures
6 for purposes of the Tax Equity and Educational
7 Opportunities Support Act; to change provisions relating
8 to distribution of school funds from school lands; to
9 provide a duty for the Revisor of Statutes; and to repeal
10 the original sections.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) (a) Beginning in 2016, the Commissioner of
2 Education shall annually collect data from each school district
3 prior to February 25 and determine whether at least seventy-five
4 percent of the school districts have included a system for
5 distributing apportionment funds attributable to income from solar
6 or wind energy leases on school lands for teacher performance pay
7 within such districts' local collective-bargaining agreements for
8 the ensuing school fiscal year.

9 (b) (i) If the seventy-five percent requirement has been
10 met for the year, the Commissioner of Education shall use
11 the separate accounting provided by the State Treasurer under
12 subdivision (1) (b) of section 79-1035 to determine the amount
13 of the apportionment to each school district under section
14 79-1035 that is attributable to income from solar or wind energy
15 leases on school lands. The commissioner shall notify each school
16 district of such amount within five days after certification of
17 the apportionment required pursuant to subsection (3) of section
18 79-1035. Each school district shall use the amount of apportionment
19 funds specified in the notice provided by the commissioner for
20 the purpose of teacher performance pay. Such amount shall be
21 used as a supplement to the salary schedule as provided in local
22 collective-bargaining agreements. For purposes of distribution of
23 such funds only, the Legislature finds that teacher performance
24 pay measurements, criteria, and payout amounts are mandatory topics
25 of collective bargaining. If a school district has not included a

1 system for distributing apportionment funds attributable to income
2 from solar or wind energy leases on school lands for teacher
3 performance pay within its local collective-bargaining agreement,
4 the amount of apportionment funds specified in the notice provided
5 by the commissioner shall be returned to the State Treasurer within
6 one month of receipt of such funds. The State Treasurer shall
7 immediately credit any funds returned under this section to the
8 temporary school fund. Any funds returned under this section shall
9 be redistributed from the temporary school fund in the following
10 year and shall no longer be designated as income attributable to
11 solar or wind energy leases on school lands.

12 (ii) If the seventy-five percent requirement has not been
13 met for the year, then subdivision (1)(b)(i) of this section shall
14 not apply for that year.

15 (2) If the seventy-five percent requirement has not been
16 met in 2016, 2017, or 2018, then this section shall not apply in
17 2019 or any year thereafter.

18 (3) For purposes of this section:

19 (a) Lease means any lease, easement, covenant, or other
20 such contractual arrangement; and

21 (b) Teacher performance pay means a systematic process
22 for measuring teachers' performance and linking the measurements
23 to changes in teacher pay. Indicators of teacher performance may
24 include improving professional skills and knowledge, classroom
25 performance or instructional behavior, and instructional outcomes.

1 Teacher performance pay may include predetermined bonus amounts and
2 payout criteria.

3 Sec. 2. Section 79-1018.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 79-1018.01 Except as otherwise provided in this section,
6 local system formula resources include other actual receipts
7 available for the funding of general fund operating expenditures
8 as determined by the department for the second school fiscal
9 year immediately preceding the school fiscal year in which aid
10 is to be paid. Receipts from the Community Improvements Cash Fund
11 and receipts acquired pursuant to the Low-Level Radioactive Waste
12 Disposal Act shall not be included. Other actual receipts include:

- 13 (1) Public power district sales tax revenue;
- 14 (2) Fines and license fees;
- 15 (3) Tuition receipts from individuals, other districts,
16 or any other source except receipts derived from adult education,
17 receipts derived from summer school tuition, receipts derived from
18 early childhood education tuition, and receipts from educational
19 entities as defined in section 79-1201.01 for providing distance
20 education courses through the Distance Education Council until July
21 1, 2008, and the Educational Service Unit Coordinating Council on
22 and after July 1, 2008, to such educational entities;
- 23 (4) Transportation receipts;
- 24 (5) Interest on investments;
- 25 (6) Other miscellaneous noncategorical local receipts,

1 not including receipts from private foundations, individuals,
2 associations, or charitable organizations;

3 (7) Special education receipts;

4 (8) Special education receipts and non-special education
5 receipts from the state for wards of the court and wards of the
6 state;

7 (9) All receipts from the temporary school fund.
8 Beginning with the calculation of aid for school fiscal year
9 2002-03 and each school fiscal year thereafter, receipts from the
10 temporary school fund shall only include (a) receipts pursuant
11 to section 79-1035, to the extent that such receipts for the
12 calculation of aid for school fiscal year 2018-19 and each school
13 fiscal year thereafter are not returned to the temporary school
14 fund pursuant to section 1 of this act, and (b) the receipt of
15 funds pursuant to section 79-1036 for property leased for a public
16 purpose as set forth in subdivision (1)(a) of section 77-202;

17 (10) Motor vehicle tax receipts received on or after
18 January 1, 1998;

19 (11) Pro rata motor vehicle license fee receipts;

20 (12) Other miscellaneous state receipts excluding revenue
21 from the textbook loan program authorized by section 79-734;

22 (13) Impact aid entitlements for the school fiscal year
23 which have actually been received by the district to the extent
24 allowed by federal law;

25 (14) All other noncategorical federal receipts;

1 (15) All receipts pursuant to the enrollment option
2 program under sections 79-232 to 79-246;

3 (16) Receipts under the federal Medicare Catastrophic
4 Coverage Act of 1988, as such act existed on May 8, 2001, as
5 authorized pursuant to sections 43-2510 and 43-2511 but only to the
6 extent of the amount the local system would have otherwise received
7 pursuant to the Special Education Act; and

8 (17) Receipts for accelerated or differentiated
9 curriculum programs pursuant to sections 79-1106 to 79-1108.03.

10 Sec. 3. Section 79-1028.01, Revised Statutes Supplement,
11 2009, is amended to read:

12 79-1028.01 (1) For ~~school fiscal year 2008-09~~ and each
13 school fiscal year, ~~thereafter~~, a school district may exceed its
14 maximum general fund budget of expenditures minus the special
15 education budget of expenditures by a specific dollar amount for:

16 (a) Expenditures for repairs to infrastructure damaged by
17 a natural disaster which is declared a disaster emergency pursuant
18 to the Emergency Management Act;

19 (b) Expenditures for judgments, except judgments or
20 orders from the Commission of Industrial Relations, obtained
21 against a school district which require or obligate a school
22 district to pay such judgment, to the extent such judgment is not
23 paid by liability insurance coverage of a school district;

24 (c) Expenditures pursuant to the Retirement Incentive
25 Plan authorized in section 79-855 or the Staff Development

1 Assistance authorized in section 79-856;

2 (d) Expenditures of incentive payments or base fiscal
3 year incentive payments to be received in such school fiscal year
4 pursuant to section 79-1011;

5 (e) Expenditures of amounts received from educational
6 entities as defined in section 79-1201.01 for providing distance
7 education courses through the Educational Service Unit Coordinating
8 Council to such educational entities;

9 (f) Either (i) the first and second school fiscal years
10 the district will be participating in Network Nebraska for the
11 full school fiscal year or (ii) school fiscal year 2008-09, if
12 the school district participated in Network Nebraska for all of
13 school fiscal year 2007-08, for the difference of the estimated
14 expenditures for such school fiscal year for telecommunications
15 services, access to data transmission networks that transmit data
16 to and from the school district, and the transmission of data on
17 such networks as such expenditures are defined by the department
18 for purposes of the distance education and telecommunications
19 allowance minus the dollar amount of such expenditures for the
20 second school fiscal year preceding the first full school fiscal
21 year the district participates in Network Nebraska;

22 (g) Expenditures to pay another school district for the
23 transfer of land from such other school district;

24 (h) Expenditures in school fiscal years 2009-10 through
25 2013-14 to pay for employer contributions pursuant to subsection

1 (2) of section 79-958 to the School Retirement System of the
2 State of Nebraska to the extent that such expenditures exceed the
3 employer contributions under such subsection that would have been
4 made at a contribution rate of seven and thirty-five hundredths
5 percent; ~~and~~

6 (i) Expenditures in school fiscal years 2009-10 through
7 2013-14 to pay for school district contributions pursuant to
8 subdivision (1)(c)(i) of section 79-9,113 to the Class V School
9 Employees Retirement System to the extent that such expenditures
10 exceed the school district contributions under such subdivision
11 that would have been made at a contribution rate of seven and
12 thirty-seven hundredths percent;~~;~~

13 ~~(2) For school fiscal year 2009-10 and each school fiscal~~
14 ~~year thereafter, a school district may exceed its maximum general~~
15 ~~fund budget of expenditures minus the special education budget of~~
16 ~~expenditures by a specific dollar amount for (a) expenditures~~

17 (j) Expenditures for sums agreed to be paid by a school
18 district to certificated employees in exchange for a voluntary
19 termination occurring prior to July 1, 2009;~~;~~ ~~and (b) expenditures~~

20 (k) Expenditures for new elementary attendance sites in
21 the first year of operation or the first year of operation after
22 being closed for at least one school year if such elementary
23 attendance site will most likely qualify for the elementary site
24 allowance in the immediately following school fiscal year as
25 determined by the state board; ~~and;~~

1 (1) Any expenditures in school fiscal years 2016-17
2 and 2017-18 of amounts specified in the notice provided by the
3 Commissioner of Education pursuant to section 1 of this act for
4 teacher performance pay.

5 ~~(3)~~ (2) The state board shall approve, deny, or modify
6 the amount allowed for any exception to the maximum general fund
7 budget of expenditures minus the special education budget of
8 expenditures pursuant to this section.

9 Sec. 4. Section 79-1035, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 79-1035 ~~(1)~~ (1)(a) The State Treasurer shall, each year
12 on or before the third Monday in January, make a complete exhibit
13 of all money belonging to the permanent school fund and the
14 temporary school fund as returned to him or her from the several
15 counties, together with the amount derived from other sources,
16 and deliver such exhibit duly certified to the Commissioner of
17 Education.

18 (b) Beginning in 2016 and each year thereafter, the
19 exhibit required in subdivision (1)(a) of this section shall
20 include a separate accounting, not to exceed an amount of ten
21 million dollars, of the income from solar and wind energy leases
22 on school lands. The Board of Educational Lands and Funds shall
23 provide the State Treasurer with the information necessary to make
24 the exhibit required by this subsection. Separate accounting shall
25 not be made for income from solar or wind energy leases on school

1 lands that exceeds the sum of ten million dollars.

2 (2) On or before February 25 following receipt of the
3 exhibit from the State Treasurer pursuant to subsection (1) of this
4 section, the Commissioner of Education shall make the apportionment
5 of the temporary school fund to each school district as follows:
6 From the whole amount there shall be paid to those districts in
7 which there are school or saline lands, which lands are used for a
8 public purpose, an amount in lieu of tax money that would be raised
9 if such lands were taxable, to be fixed in the manner prescribed
10 in section 79-1036; and the remainder shall be apportioned to the
11 districts according to the pro rata enumeration of children who are
12 five through eighteen years of age in each district last returned
13 from the school district. The calculation of apportionment for
14 each school fiscal year shall include any corrections to the prior
15 school fiscal year's apportionment.

16 ~~(2)~~ (3) The Commissioner of Education shall certify
17 the amount of the apportionment of the temporary school fund as
18 provided in subsection ~~(1)~~ (2) of this section to the Director
19 of Administrative Services. The Director of Administrative Services
20 shall draw a warrant on the State Treasurer in favor of the
21 various districts for the respective amounts so certified by the
22 Commissioner of Education.

23 (4) For purposes of this section, lease means any lease,
24 easement, covenant, or other such contractual arrangement.

25 Sec. 5. The Revisor of Statutes shall assign section 1 of

1 this act to Chapter 79.

2 Sec. 6. Original sections 79-1018.01 and 79-1035, Reissue
3 Revised Statutes of Nebraska, and section 79-1028.01, Revised
4 Statutes Supplement, 2009, are repealed.