

AMENDMENTS TO LB 382

(Amendments to Standing Committee amendments, AM1101)

Introduced by Adams

1 1. Insert the following new sections:

2 Sec. 5. Section 79-1003, Revised Statutes Cumulative
3 Supplement, 2010, as amended by section 2, Legislative Bill 18,
4 One Hundred Second Legislature, First Session, 2011, and section
5 5, Legislative Bill 235, One Hundred Second Legislature, First
6 Session, 2011, is amended to read:

7 79-1003 For purposes of the Tax Equity and Educational
8 Opportunities Support Act:

9 (1) Adjusted general fund operating expenditures
10 means (a) for school fiscal years 2010-11 through 2012-13,
11 the difference of the general fund operating expenditures as
12 calculated pursuant to subdivision (22) of this section increased
13 by, or for aid calculated for school fiscal year 2010-11
14 multiplied by, the cost growth factor calculated pursuant to
15 section 79-1007.10, minus the transportation allowance, special
16 receipts allowance, poverty allowance, limited English proficiency
17 allowance, distance education and telecommunications allowance,
18 elementary site allowance, elementary class size allowance,
19 summer school allowance, instructional time allowance, teacher
20 education allowance, and focus school and program allowance,
21 and (b) for school fiscal year 2013-14 and each school fiscal
22 year thereafter, the difference of the general fund operating

1 expenditures as calculated pursuant to subdivision (22) of this
2 section increased by the cost growth factor calculated pursuant
3 to section 79-1007.10, minus the transportation allowance, special
4 receipts allowance, poverty allowance, limited English proficiency
5 allowance, distance education and telecommunications allowance,
6 elementary site allowance, summer school allowance, instructional
7 time allowance, teacher education allowance, and focus school and
8 program allowance;

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

20 (3) Allocated income tax funds means the amount of
21 assistance paid to a local system pursuant to section 79-1005.01
22 as adjusted by the minimum levy adjustment pursuant to section
23 79-1008.02;

24 (4) Average daily membership means the average daily
25 membership for grades kindergarten through twelve attributable to
26 the local system, as provided in each district's annual statistical
27 summary, and includes the proportionate share of students enrolled

1 in a public school instructional program on less than a full-time
2 basis;

3 (5) Base fiscal year means the first school fiscal year
4 following the school fiscal year in which the reorganization or
5 unification occurred;

6 (6) Board means the school board of each school district;

7 (7) Categorical funds means funds limited to a specific
8 purpose by federal or state law, including, but not limited
9 to, Title I funds, Title VI funds, federal vocational education
10 funds, federal school lunch funds, Indian education funds, Head
11 Start funds, and funds from the Education Innovation Fund.
12 Categorical funds does not include funds received pursuant to
13 section 79-1028.02 or section 11 of this act;

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

17 (9) Converted contract means an expired contract that was
18 in effect for at least fifteen school years beginning prior to
19 school year 2012-13 for the education of students in a nonresident
20 district in exchange for tuition from the resident district when
21 the expiration of such contract results in the nonresident district
22 educating students, who would have been covered by the contract if
23 the contract were still in effect, as option students pursuant to
24 the enrollment option program established in section 79-234;

25 (10) Converted contract option student means a student
26 who will be an option student pursuant to the enrollment option
27 program established in section 79-234 for the school fiscal year

1 for which aid is being calculated and who would have been covered
2 by a converted contract if the contract were still in effect and
3 such school fiscal year is the first school fiscal year for which
4 such contract is not in effect;

5 (11) Department means the State Department of Education;

6 (12) District means any Class I, II, III, IV, V, or
7 VI school district and, beginning with the calculation of state
8 aid for school fiscal year 2011-12 and each school fiscal year
9 thereafter, a unified system as defined in section 79-4,108;

10 (13) Ensuing school fiscal year means the school fiscal
11 year following the current school fiscal year;

12 (14) Equalization aid means the amount of assistance
13 calculated to be paid to a local system pursuant to sections
14 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022,
15 79-1022.02, and 79-1028.02 and section 11 of this act;

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

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

22 (17) Formula students means:

23 (a) For state aid certified pursuant to section 79-1022,
24 the sum of the product of fall membership from the school fiscal
25 year immediately preceding the school fiscal year in which the
26 aid is to be paid multiplied by the average ratio of average
27 daily membership to fall membership for the second school fiscal

1 year immediately preceding the school fiscal year in which the aid
2 is to be paid and the prior two school fiscal years plus sixty
3 percent of the qualified early childhood education fall membership
4 plus tuitioned students from the school fiscal year immediately
5 preceding the school fiscal year in which aid is to be paid minus
6 the product of the number of students enrolled in kindergarten that
7 is not full-day kindergarten from the fall membership multiplied by
8 0.5; and

9 (b) For the final calculation of state aid pursuant
10 to section 79-1065, the sum of average daily membership plus
11 sixty percent of the qualified early childhood education average
12 daily membership plus tuitioned students minus the product of the
13 number of students enrolled in kindergarten that is not full-day
14 kindergarten from the average daily membership multiplied by 0.5
15 from the school fiscal year immediately preceding the school fiscal
16 year in which aid was paid;

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

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

24 (20) General fund budget of expenditures means the total
25 budget of disbursements and transfers for general fund purposes as
26 certified in the budget statement adopted pursuant to the Nebraska
27 Budget Act, except that for purposes of the limitation imposed in

1 section 79-1023 and the calculation pursuant to subdivision (2) of
2 section 79-1027.01, the general fund budget of expenditures does
3 not include any special grant funds, exclusive of local matching
4 funds, received by a district;

5 (21) General fund expenditures means all expenditures
6 from the general fund;

7 (22) General fund operating expenditures means:

8 (a) For state aid calculated for school fiscal years
9 2010-11 and 2011-12, as reported on the annual financial report
10 for the second school fiscal year immediately preceding the
11 school fiscal year in which aid is to be paid, the total
12 general fund expenditures minus (i) the amount of all receipts
13 to the general fund, to the extent that such receipts are not
14 included in local system formula resources, from early childhood
15 education tuition, summer school tuition, educational entities as
16 defined in section 79-1201.01 for providing distance education
17 courses through the Educational Service Unit Coordinating Council
18 to such educational entities, private foundations, individuals,
19 associations, charitable organizations, the textbook loan program
20 authorized by section 79-734, federal impact aid, and levy
21 override elections pursuant to section 77-3444, (ii) the amount
22 of expenditures for categorical funds, tuition paid, transportation
23 fees paid to other districts, adult education, community services,
24 redemption of the principal portion of general fund debt service,
25 retirement incentive plans authorized by section 79-855, and staff
26 development assistance authorized by section 79-856, (iii) the
27 amount of any transfers from the general fund to any bond fund

1 and transfers from other funds into the general fund, (iv) any
2 legal expenses in excess of fifteen-hundredths of one percent
3 of the formula need for the school fiscal year in which the
4 expenses occurred, (v) expenditures to pay for sums agreed to be
5 paid by a school district to certificated employees in exchange
6 for a voluntary termination occurring prior to July 1, 2009,
7 and (vi) (A) expenditures in school fiscal years 2009-10 through
8 2013-14 to pay for employer contributions pursuant to subsection
9 (2) of section 79-958 to the School Retirement System of the
10 State of Nebraska to the extent that such expenditures exceed the
11 employer contributions under such subsection that would have been
12 made at a contribution rate of seven and thirty-five hundredths
13 percent or (B) expenditures in school fiscal years 2009-10 through
14 2013-14 to pay for school district contributions pursuant to
15 subdivision (1)(c)(i) of section 79-9,113 to the retirement system
16 established pursuant to the Class V School Employees Retirement Act
17 to the extent that such expenditures exceed the school district
18 contributions under such subdivision that would have been made at a
19 contribution rate of seven and thirty-seven hundredths percent; and

20 (b) For state aid calculated for school fiscal years
21 2012-13 and each school fiscal year thereafter, as reported on
22 the annual financial report for the second school fiscal year
23 immediately preceding the school fiscal year in which aid is to be
24 paid, the total general fund expenditures minus (i) the amount of
25 all receipts to the general fund, to the extent that such receipts
26 are not included in local system formula resources, from early
27 childhood education tuition, summer school tuition, educational

1 entities as defined in section 79-1201.01 for providing distance
2 education courses through the Educational Service Unit Coordinating
3 Council to such educational entities, private foundations,
4 individuals, associations, charitable organizations, the textbook
5 loan program authorized by section 79-734, federal impact aid,
6 and levy override elections pursuant to section 77-3444, (ii)
7 the amount of expenditures for categorical funds, tuition paid,
8 transportation fees paid to other districts, adult education,
9 community services, redemption of the principal portion of general
10 fund debt service, retirement incentive plans authorized by section
11 79-855, and staff development assistance authorized by section
12 79-856, (iii) the amount of any transfers from the general fund
13 to any bond fund and transfers from other funds into the general
14 fund, (iv) any legal expenses in excess of fifteen-hundredths of
15 one percent of the formula need for the school fiscal year in
16 which the expenses occurred, (v) expenditures to pay for sums
17 agreed to be paid by a school district to certificated employees
18 in exchange for a voluntary termination occurring prior to July
19 1, 2009, or occurring on or after ~~July 1, 2011, and on or before~~
20 ~~June 30, 2013,~~ the last day of the 2010-11 school year and prior
21 to the first day of the 2013-14 school year, (vi) (A) expenditures
22 in school fiscal years 2009-10 through 2016-17 to pay for employer
23 contributions pursuant to subsection (2) of section 79-958 to the
24 School Retirement System of the State of Nebraska to the extent
25 that such expenditures exceed the employer contributions under
26 such subsection that would have been made at a contribution rate
27 of seven and thirty-five hundredths percent or (B) expenditures

1 in school fiscal years 2009-10 through 2016-17 to pay for school
2 district contributions pursuant to subdivision (1)(c)(i) of section
3 79-9,113 to the retirement system established pursuant to the
4 Class V School Employees Retirement Act to the extent that such
5 expenditures exceed the school district contributions under such
6 subdivision that would have been made at a contribution rate of
7 seven and thirty-seven hundredths percent, and (vii) any amounts
8 paid by the district for lobbyist fees and expenses reported to the
9 Clerk of the Legislature pursuant to section 49-1483.

10 For purposes of this subdivision (22) of this section,
11 receipts from levy override elections shall equal ninety-nine
12 percent of the difference of the total general fund levy minus
13 a levy of one dollar and five cents per one hundred dollars of
14 taxable valuation multiplied by the assessed valuation for school
15 districts that have voted pursuant to section 77-3444 to override
16 the maximum levy provided pursuant to section 77-3442;

17 (23) High school district means a school district
18 providing instruction in at least grades nine through twelve;

19 (24) Income tax liability means the amount of the
20 reported income tax liability for resident individuals pursuant
21 to the Nebraska Revenue Act of 1967 less all nonrefundable credits
22 earned and refunds made;

23 (25) Income tax receipts means the amount of income tax
24 collected pursuant to the Nebraska Revenue Act of 1967 less all
25 nonrefundable credits earned and refunds made;

26 (26) Limited English proficiency students means the
27 number of students with limited English proficiency in a district

1 from the most recent data available on November 1 of the school
2 fiscal year preceding the school fiscal year in which aid is to
3 be paid plus the difference of such students with limited English
4 proficiency minus the average number of limited English proficiency
5 students for such district, prior to such addition, for the three
6 immediately preceding school fiscal years if such difference is
7 greater than zero;

8 (27) Local system means a learning community for purposes
9 of calculation of state aid for the second full school fiscal
10 year after becoming a learning community and each school fiscal
11 year thereafter, a unified system, a Class VI district and the
12 associated Class I districts, or a Class II, III, IV, or V
13 district and any affiliated Class I districts or portions of
14 Class I districts. The membership, expenditures, and resources of
15 Class I districts that are affiliated with multiple high school
16 districts will be attributed to local systems based on the percent
17 of the Class I valuation that is affiliated with each high school
18 district;

19 (28) Low-income child means a child under nineteen years
20 of age living in a household having an annual adjusted gross income
21 for the second calendar year preceding the beginning of the school
22 fiscal year for which aid is being calculated equal to or less
23 than the maximum household income that would allow a student from
24 a family of four people to be a free lunch and free milk student
25 during the school fiscal year immediately preceding the school
26 fiscal year for which aid is being calculated;

27 (29) Low-income students means the number of low-income

1 children within the district multiplied by the ratio of the formula
2 students in the district divided by the total children under
3 nineteen years of age residing in the district as derived from
4 income tax information;

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

11 (31) Poverty students means the number of low-income
12 students or the number of students who are free lunch and free
13 milk students in a district plus the difference of the number of
14 low-income students or the number of students who are free lunch
15 and free milk students in a district, whichever is greater, minus
16 the average number of poverty students for such district, prior to
17 such addition, for the three immediately preceding school fiscal
18 years if such difference is greater than zero;

19 (32) Qualified early childhood education average daily
20 membership means the product of the average daily membership for
21 school fiscal year 2006-07 and each school fiscal year thereafter
22 of students who will be eligible to attend kindergarten the
23 following school year and are enrolled in an early childhood
24 education program approved by the department pursuant to section
25 79-1103 for such school district for such school year multiplied by
26 the ratio of the actual instructional hours of the program divided
27 by one thousand thirty-two if: (a) The program is receiving a grant

1 pursuant to such section for the third year; (b) the program has
2 already received grants pursuant to such section for three years;
3 or (c) the program has been approved pursuant to subsection (5) of
4 section 79-1103 for such school year and the two preceding school
5 years, including any such students in portions of any of such
6 programs receiving an expansion grant;

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

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

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

27 (36) School year or school fiscal year means the fiscal

1 year of a school district as defined in section 79-1091;

2 (37) Sparse local system means a local system that is not
3 a very sparse local system but which meets the following criteria:

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

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

14 (c) (i) Less than one and one-half formula students per
15 square mile in the local system and (ii) more than two hundred
16 seventy-five square miles in the local system; or

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

22 (38) Special education means specially designed
23 kindergarten through grade twelve instruction pursuant to section
24 79-1125, and includes special education transportation;

25 (39) Special grant funds means the budgeted receipts
26 for grants, including, but not limited to, categorical funds,
27 reimbursements for wards of the court, short-term borrowings

1 including, but not limited to, registered warrants and tax
2 anticipation notes, interfund loans, insurance settlements, and
3 reimbursements to county government for previous overpayment. The
4 state board shall approve a listing of grants that qualify as
5 special grant funds;

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

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

10 (42) 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 (43) Statewide average basic funding per formula student
14 means the statewide total basic funding for all districts divided
15 by the statewide total formula students for all districts;

16 (44) Statewide average general fund operating
17 expenditures per formula student means the statewide total
18 general fund operating expenditures for all districts divided by
19 the statewide total formula students for all districts;

20 (45) Teacher has the definition found in section 79-101;

21 (46) Temporary aid adjustment factor means (a) for school
22 fiscal years before school fiscal year 2007-08, one and one-fourth
23 percent of the sum of the local system's transportation allowance,
24 the local system's special receipts allowance, and the product
25 of the local system's adjusted formula students multiplied by
26 the average formula cost per student in the local system's
27 cost grouping and (b) for school fiscal year 2007-08, one and

1 one-fourth percent of the sum of the local system's transportation
2 allowance, special receipts allowance, and distance education and
3 telecommunications allowance and the product of the local system's
4 adjusted formula students multiplied by the average formula cost
5 per student in the local system's cost grouping;

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

10 (48) Tuitioned students means students in kindergarten
11 through grade twelve of the district whose tuition is paid by the
12 district to some other district or education agency; and

13 (49) Very sparse local system means a local system that
14 has:

15 (a) (i) Less than one-half student per square mile in
16 each county in which each high school attendance center is located
17 based on the school district census, (ii) less than one formula
18 student per square mile in the local system, and (iii) more than
19 fifteen miles between the high school attendance center and the
20 next closest high school attendance center on paved roads; or

21 (b) (i) More than four hundred fifty square miles in the
22 local system, (ii) less than one-half student per square mile in
23 the local system, and (iii) more than fifteen miles between each
24 high school attendance center and the next closest high school
25 attendance center on paved roads.

26 Sec. 6. Section 79-1028.01, Revised Statutes Cumulative
27 Supplement, 2010, as amended by section 21, Legislative Bill 235,

1 One Hundred Second Legislature, First Session, 2011, is amended to
2 read:

3 79-1028.01 (1) For each school fiscal year, a school
4 district may exceed its budget authority for the general fund
5 budget of expenditures as calculated pursuant to section 79-1023
6 for such school fiscal year by a specific dollar amount for the
7 following exclusions:

8 (a) Expenditures for repairs to infrastructure damaged by
9 a natural disaster which is declared a disaster emergency pursuant
10 to the Emergency Management Act;

11 (b) Expenditures for judgments, except judgments or
12 orders from the Commission of Industrial Relations, obtained
13 against a school district which require or obligate a school
14 district to pay such judgment, to the extent such judgment is not
15 paid by liability insurance coverage of a school district;

16 (c) Expenditures pursuant to the Retirement Incentive
17 Plan authorized in section 79-855 or the Staff Development
18 Assistance authorized in section 79-856;

19 (d) Expenditures of amounts received from educational
20 entities as defined in section 79-1201.01 for providing distance
21 education courses through the Educational Service Unit Coordinating
22 Council to such educational entities;

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

25 (f) Expenditures in school fiscal years 2009-10 through
26 2016-17 to pay for employer contributions pursuant to subsection
27 (2) of section 79-958 to the School Retirement System of the

1 State of Nebraska to the extent that such expenditures exceed the
2 employer contributions under such subsection that would have been
3 made at a contribution rate of seven and thirty-five hundredths
4 percent;

5 (g) Expenditures in school fiscal years 2009-10 through
6 2016-17 to pay for school district contributions pursuant to
7 subdivision (1)(c)(i) of section 79-9,113 to the Class V School
8 Employees Retirement System to the extent that such expenditures
9 exceed the school district contributions under such subdivision
10 that would have been made at a contribution rate of seven and
11 thirty-seven hundredths percent;

12 (h) Expenditures for sums agreed to be paid by a school
13 district to certificated employees in exchange for a voluntary
14 termination occurring prior to July 1, 2009, or occurring on or
15 after ~~July 1, 2011, and on or before June 30, 2013,~~ the last day of
16 the 2010-11 school year and prior to the first day of the 2013-14
17 school year;

18 (i) Any expenditures in school fiscal years 2016-17
19 and 2017-18 of amounts specified in the notice provided by the
20 Commissioner of Education pursuant to section 79-309.01 for teacher
21 performance pay;

22 (j) The special education budget of expenditures; and

23 (k) Expenditures of special grant funds.

24 (2) For each school fiscal year, a school district
25 may exceed its budget authority for the general fund budget of
26 expenditures as calculated pursuant to section 79-1023 for such
27 school fiscal year by a specific dollar amount and include such

1 dollar amount in the budget of expenditures used to calculate
2 budget authority for the general fund budget of expenditures
3 pursuant to section 79-1023 for future years for the following
4 exclusions:

5 (a) Expenditures of incentive payments or base fiscal
6 year incentive payments to be received in such school fiscal year
7 pursuant to section 79-1011;

8 (b) The first school fiscal year the district will
9 be participating in Network Nebraska for the full school fiscal
10 year, for the difference of the estimated expenditures for such
11 school fiscal year for telecommunications services, access to
12 data transmission networks that transmit data to and from the
13 school district, and the transmission of data on such networks as
14 such expenditures are defined by the department for purposes of
15 the distance education and telecommunications allowance minus the
16 dollar amount of such expenditures for the second school fiscal
17 year preceding the first full school fiscal year the district
18 participates in Network Nebraska; and

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

25 (3) The state board shall approve, deny, or modify the
26 amount allowed for any exclusions to the budget authority for the
27 general fund budget of expenditures pursuant to this section.

- 1 2. Renumber the remaining sections and correct the
- 2 repealer accordingly.