

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 148

Introduced by Avery, 28; Fulton, 29; Louden, 49; Utter, 33.

Read first time January 07, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities
2 Support Act; to amend section 79-1003, Revised Statutes
3 Cumulative Supplement, 2010; to exclude lobbying expenses
4 from the definition of general fund operating
5 expenditures; to repeal the original section; and to
6 declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-1003 For purposes of the Tax Equity and Educational
4 Opportunities Support Act:

5 (1) Adjusted general fund operating expenditures means
6 (a) for school fiscal years before school fiscal year 2007-08,
7 general fund operating expenditures as calculated pursuant to
8 subdivision (21) of this section minus the transportation allowance
9 and minus the special receipts allowance, (b) for school fiscal year
10 2007-08, general fund operating expenditures as calculated pursuant
11 to subdivision (21) of this section minus the sum of the
12 transportation, special receipts, and distance education and
13 telecommunications allowances, (c) for school fiscal year 2008-09,
14 the difference of the product of the general fund operating
15 expenditures as calculated pursuant to subdivision (21) of this
16 section multiplied by the cost growth factor calculated pursuant to
17 section 79-1007.10 minus the transportation allowance, special
18 receipts allowance, poverty allowance, limited English proficiency
19 allowance, distance education and telecommunications allowance,
20 elementary site allowance, elementary class size allowance, summer
21 school allowance, and focus school and program allowance, (d) for
22 school fiscal year 2009-10, the difference of the product of the
23 general fund operating expenditures as calculated pursuant to
24 subdivision (21) of this section multiplied by the cost growth factor
25 calculated pursuant to section 79-1007.10 minus the transportation

1 allowance, special receipts allowance, poverty allowance, limited
2 English proficiency allowance, distance education and
3 telecommunications allowance, elementary site allowance, elementary
4 class size allowance, summer school allowance, instructional time
5 allowance, and focus school and program allowance, (e) for school
6 fiscal years 2010-11 through 2012-13, the difference of the product
7 of the general fund operating expenditures as calculated pursuant to
8 subdivision (21) of this section multiplied by the cost growth factor
9 calculated pursuant to section 79-1007.10 minus the transportation
10 allowance, special receipts allowance, poverty allowance, limited
11 English proficiency allowance, distance education and
12 telecommunications allowance, elementary site allowance, elementary
13 class size allowance, summer school allowance, instructional time
14 allowance, teacher education allowance, and focus school and program
15 allowance, and (f) for school fiscal year 2013-14 and each school
16 fiscal year thereafter, the difference of the product of the general
17 fund operating expenditures as calculated pursuant to subdivision
18 (21) of this section multiplied by the cost growth factor calculated
19 pursuant to section 79-1007.10 minus the transportation allowance,
20 special receipts allowance, poverty allowance, limited English
21 proficiency allowance, distance education and telecommunications
22 allowance, elementary site allowance, summer school allowance,
23 instructional time allowance, teacher education allowance, and focus
24 school and program allowance;

25 (2) Adjusted valuation means the assessed valuation of

1 taxable property of each local system in the state, adjusted pursuant
2 to the adjustment factors described in section 79-1016. Adjusted
3 valuation means the adjusted valuation for the property tax year
4 ending during the school fiscal year immediately preceding the school
5 fiscal year in which the aid based upon that value is to be paid. For
6 purposes of determining the local effort rate yield pursuant to
7 section 79-1015.01, adjusted valuation does not include the value of
8 any property which a court, by a final judgment from which no appeal
9 is taken, has declared to be nontaxable or exempt from taxation;

10 (3) Allocated income tax funds means the amount of
11 assistance paid to a local system pursuant to section 79-1005.01 or
12 79-1005.02 as adjusted by the minimum levy adjustment pursuant to
13 section 79-1008.02;

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

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

23 (6) Base fiscal year means the first school fiscal year
24 following the school fiscal year in which the reorganization or
25 unification occurred;

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

2 (8) Categorical funds means funds limited to a specific
3 purpose by federal or state law, including, but not limited to, Title
4 I funds, Title VI funds, federal vocational education funds, federal
5 school lunch funds, Indian education funds, Head Start funds, and
6 funds from the Education Innovation Fund;

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

10 (10) Department means the State Department of Education;

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

15 (12) Ensuing school fiscal year means the school fiscal
16 year following the current school fiscal year;

17 (13) Equalization aid means the amount of assistance
18 calculated to be paid to a local system pursuant to sections
19 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and
20 79-1022.02;

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

25 (15) Fiscal year means the state fiscal year which is the

1 period from July 1 to the following June 30;

2 (16) Formula students means:

3 (a) For school fiscal years prior to school fiscal year
4 2008-09, (i) for state aid certified pursuant to section 79-1022, the
5 sum of fall membership from the school fiscal year immediately
6 preceding the school fiscal year in which the aid is to be paid,
7 multiplied by the average ratio of average daily membership to fall
8 membership for the second school fiscal year immediately preceding
9 the school fiscal year in which aid is to be paid and the prior two
10 school fiscal years, plus qualified early childhood education fall
11 membership plus tuitioned students from the school fiscal year
12 immediately preceding the school fiscal year in which the aid is to
13 be paid and (ii) for final calculation of state aid pursuant to
14 section 79-1065, the sum of average daily membership plus qualified
15 early childhood education average daily membership plus tuitioned
16 students from the school fiscal year immediately preceding the school
17 fiscal year in which the aid was paid; and

18 (b) For school fiscal year 2008-09 and each school fiscal
19 year thereafter, (i) for state aid certified pursuant to section
20 79-1022, the sum of the product of fall membership from the school
21 fiscal year immediately preceding the school fiscal year in which the
22 aid is to be paid multiplied by the average ratio of average daily
23 membership to fall membership for the second school fiscal year
24 immediately preceding the school fiscal year in which the aid is to
25 be paid and the prior two school fiscal years plus sixty percent of

1 the qualified early childhood education fall membership plus
2 tuitioned students from the school fiscal year immediately preceding
3 the school fiscal year in which aid is to be paid minus the product
4 of the number of students enrolled in kindergarten that is not full-
5 day kindergarten from the fall membership multiplied by 0.5 and (ii)
6 for final calculation of state aid pursuant to section 79-1065, the
7 sum of average daily membership plus sixty percent of the qualified
8 early childhood education average daily membership plus tuitioned
9 students minus the product of the number of students enrolled in
10 kindergarten that is not full-day kindergarten from the average daily
11 membership multiplied by 0.5 from the school fiscal year immediately
12 preceding the school fiscal year in which aid was paid;

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

17 (18) Full-day kindergarten means kindergarten offered by
18 a district for at least one thousand thirty-two instructional hours;

19 (19) General fund budget of expenditures means the total
20 budget of disbursements and transfers for general fund purposes as
21 certified in the budget statement adopted pursuant to the Nebraska
22 Budget Act, except that for purposes of the limitation imposed in
23 section 79-1023 and the calculation pursuant to subdivision (2) of
24 section 79-1027.01, the general fund budget of expenditures does not
25 include any special grant funds, exclusive of local matching funds,

1 received by a district;

2 (20) General fund expenditures means all expenditures
3 from the general fund;

4 (21) General fund operating expenditures means:

5 (a) For state aid calculated for school fiscal years
6 prior to school fiscal year 2008-09, the total general fund
7 expenditures minus categorical funds, tuition paid, transportation
8 fees paid to other districts, adult education, summer school,
9 community services, redemption of the principal portion of general
10 fund debt service, retirement incentive plans, staff development
11 assistance, and transfers from other funds into the general fund for
12 the second school fiscal year immediately preceding the school fiscal
13 year in which aid is to be paid as reported on the annual financial
14 report prior to December 1 of the school fiscal year immediately
15 preceding the school fiscal year in which aid is to be paid;

16 (b) For state aid calculated for school fiscal year
17 2008-09, as reported for the second school fiscal year immediately
18 preceding the school fiscal year in which aid is to be paid on the
19 annual financial report submitted prior to December 1 of the school
20 fiscal year immediately preceding the school fiscal year in which aid
21 is to be paid, the total general fund expenditures minus (i) the
22 amount of all receipts to the general fund, to the extent that such
23 receipts are not included in local system formula resources, from
24 early childhood education tuition, summer school tuition, educational
25 entities as defined in section 79-1201.01 for providing distance

1 education courses through the Educational Service Unit Coordinating
2 Council to such educational entities, private foundations,
3 individuals, associations, charitable organizations, the textbook
4 loan program authorized by section 79-734, and federal impact aid,
5 (ii) the amount of expenditures for categorical funds, tuition paid,
6 transportation fees paid to other districts, adult education,
7 community services, redemption of the principal portion of general
8 fund debt service, retirement incentive plans authorized by section
9 79-855, and staff development assistance authorized by section
10 79-856, and (iii) the amount of any transfers from the general fund
11 to any bond fund and transfers from other funds into the general
12 fund;

13 (c) For state aid calculated for school fiscal year
14 2009-10, as reported on the annual financial report for the second
15 school fiscal year immediately preceding the school fiscal year in
16 which aid is to be paid, the total general fund expenditures minus
17 (i) the amount of all receipts to the general fund, to the extent
18 that such receipts are not included in local system formula
19 resources, from early childhood education tuition, summer school
20 tuition, educational entities as defined in section 79-1201.01 for
21 providing distance education courses through the Educational Service
22 Unit Coordinating Council to such educational entities, private
23 foundations, individuals, associations, charitable organizations, the
24 textbook loan program authorized by section 79-734, and federal
25 impact aid, (ii) the amount of expenditures for categorical funds,

1 tuition paid, transportation fees paid to other districts, adult
2 education, community services, redemption of the principal portion of
3 general fund debt service, retirement incentive plans authorized by
4 section 79-855, and staff development assistance authorized by
5 section 79-856, (iii) the amount of any transfers from the general
6 fund to any bond fund and transfers from other funds into the general
7 fund, and (iv) any legal expenses in excess of fifteen-hundredths of
8 one percent of the formula need for the school fiscal year in which
9 the expenses occurred; and

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

1 redemption of the principal portion of general fund debt service,
2 retirement incentive plans authorized by section 79-855, and staff
3 development assistance authorized by section 79-856, (iii) the amount
4 of any transfers from the general fund to any bond fund and transfers
5 from other funds into the general fund, (iv) any legal expenses in
6 excess of fifteen-hundredths of one percent of the formula need for
7 the school fiscal year in which the expenses occurred, (v)
8 expenditures to pay for sums agreed to be paid by a school district
9 to certificated employees in exchange for a voluntary termination
10 occurring prior to July 1, 2009, ~~and~~-(vi)(A) expenditures in school
11 fiscal years 2009-10 through 2013-14 to pay for employer
12 contributions pursuant to subsection (2) of section 79-958 to the
13 School Retirement System of the State of Nebraska to the extent that
14 such expenditures exceed the employer contributions under such
15 subsection that would have been made at a contribution rate of seven
16 and thirty-five hundredths percent or (B) expenditures in school
17 fiscal years 2009-10 through 2013-14 to pay for school district
18 contributions pursuant to subdivision (1)(c)(i) of section 79-9,113
19 to the Class V School Employees Retirement System to the extent that
20 such expenditures exceed the school district contributions under such
21 subdivision that would have been made at a contribution rate of seven
22 and thirty-seven hundredths percent, and (vii) any amounts paid by
23 the district for lobbyist fees and expenses.

24 For purposes of this subdivision (21) of this section,
25 receipts from levy override elections shall equal ninety-nine percent

1 of the difference of the total general fund levy minus a levy of one
2 dollar and five cents per one hundred dollars of taxable valuation
3 multiplied by the assessed valuation for school districts that have
4 voted pursuant to section 77-3444 to override the maximum levy
5 provided pursuant to section 77-3442;

6 (22) High school district means a school district
7 providing instruction in at least grades nine through twelve;

8 (23) Income tax liability means the amount of the
9 reported income tax liability for resident individuals pursuant to
10 the Nebraska Revenue Act of 1967 less all nonrefundable credits
11 earned and refunds made;

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

15 (25) Limited English proficiency students means (a) for
16 school fiscal years prior to school fiscal year 2009-10, the number
17 of students with limited English proficiency in a district from the
18 most recent data available on November 1 of the school fiscal year
19 preceding the school fiscal year in which aid is to be paid and (b)
20 for school fiscal year 2009-10 and each school fiscal year
21 thereafter, the number of students with limited English proficiency
22 in a district from the most recent data available on November 1 of
23 the school fiscal year preceding the school fiscal year in which aid
24 is to be paid plus the difference of such students with limited
25 English proficiency minus the average number of limited English

1 proficiency students for such district, prior to such addition, for
2 the three immediately preceding school fiscal years if such
3 difference is greater than zero;

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

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

1 preceding the school fiscal year for which aid is being calculated;

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

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

13 (30) Poverty students means (a) for school fiscal years
14 prior to school fiscal year 2009-10, the number of low-income
15 students or the number of students who are free lunch and free milk
16 students in a district, whichever is greater, and (b) for school
17 fiscal year 2009-10 and each school fiscal year thereafter, the
18 number of low-income students or the number of students who are free
19 lunch and free milk students in a district plus the difference of the
20 number of low-income students or the number of students who are free
21 lunch and free milk students in a district, whichever is greater,
22 minus the average number of poverty students for such district, prior
23 to such addition, for the three immediately preceding school fiscal
24 years if such difference is greater than zero;

25 (31) Qualified early childhood education average daily

1 membership means the product of the average daily membership for
2 school fiscal year 2006-07 and each school fiscal year thereafter of
3 students who will be eligible to attend kindergarten the following
4 school year and are enrolled in an early childhood education program
5 approved by the department pursuant to section 79-1103 for such
6 school district for such school year multiplied by the ratio of the
7 actual instructional hours of the program divided by one thousand
8 thirty-two if: (a) The program is receiving a grant pursuant to such
9 section for the third year; (b) the program has already received
10 grants pursuant to such section for three years; or (c) the program
11 has been approved pursuant to subsection (5) of section 79-1103 for
12 such school year and the two preceding school years, including any
13 such students in portions of any of such programs receiving an
14 expansion grant;

15 (32) Qualified early childhood education fall membership
16 means the product of membership on the last Friday in September 2006
17 and each year thereafter of students who will be eligible to attend
18 kindergarten the following school year and are enrolled in an early
19 childhood education program approved by the department pursuant to
20 section 79-1103 for such school district for such school year
21 multiplied by the ratio of the planned instructional hours of the
22 program divided by one thousand thirty-two if: (a) The program is
23 receiving a grant pursuant to such section for the third year; (b)
24 the program has already received grants pursuant to such section for
25 three years; or (c) the program has been approved pursuant to

1 subsection (5) of section 79-1103 for such school year and the two
2 preceding school years, including any such students in portions of
3 any of such programs receiving an expansion grant;

4 (33) Regular route transportation means the
5 transportation of students on regularly scheduled daily routes to and
6 from the attendance center;

7 (34) Reorganized district means any district involved in
8 a consolidation and currently educating students following
9 consolidation;

10 (35) School year or school fiscal year means the fiscal
11 year of a school district as defined in section 79-1091;

12 (36) Sparse local system means a local system that is not
13 a very sparse local system but which meets the following criteria:

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

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

24 (c)(i) Less than one and one-half formula students per
25 square mile in the local system and (ii) more than two hundred

1 seventy-five square miles in the local system; or

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

7 (37) Special education means specially designed
8 kindergarten through grade twelve instruction pursuant to section
9 79-1125, and includes special education transportation;

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

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

21 (40) State board means the State Board of Education;

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

25 (42) Statewide average basic funding per formula student

1 means the statewide total basic funding for all districts divided by
2 the statewide total formula students for all districts;

3 (43) Statewide average general fund operating
4 expenditures per formula student means the statewide total general
5 fund operating expenditures for all districts divided by the
6 statewide total formula students for all districts;

7 (44) Teacher has the definition found in section 79-101;

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 of the
12 local system's adjusted formula students multiplied by the average
13 formula cost per student in the local system's cost grouping and (b)
14 for school fiscal year 2007-08, one and one-fourth percent of the sum
15 of the local system's transportation allowance, special receipts
16 allowance, and distance education and telecommunications allowance
17 and the product of the local system's adjusted formula students
18 multiplied by the average formula cost per student in the local
19 system's cost grouping;

20 (46) Tuitioned students means students in kindergarten
21 through grade twelve of the district whose tuition is paid by the
22 district to some other district or education agency; and

23 (47) Very sparse local system means a local system that
24 has:

25 (a)(i) Less than one-half student per square mile in each

1 county in which each high school attendance center is located based
2 on the school district census, (ii) less than one formula student per
3 square mile in the local system, and (iii) more than fifteen miles
4 between the high school attendance center and the next closest high
5 school attendance center on paved roads; or

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

11 Sec. 2. Original section 79-1003, Revised Statutes
12 Cumulative Supplement, 2010, is repealed.

13 Sec. 3. Since an emergency exists, this act takes effect
14 when passed and approved according to law.