

LEGISLATURE OF NEBRASKA
 ONE HUNDRED SECOND LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 18

Introduced by Adams, 24.

Read first time January 06, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities
 2 Support Act; to amend section 79-1022.02, Reissue Revised
 3 Statutes of Nebraska, and sections 79-1001, 79-1003,
 4 79-1007.07, 79-1007.09, 79-1008.01, 79-1022, 79-1023,
 5 79-1026.01, 79-1027, 79-1028.02, and 79-1031.01, Revised
 6 Statutes Cumulative Supplement, 2010; to redefine terms;
 7 to provide for distribution of allocations from the
 8 federal Education Jobs Fund as prescribed; to change
 9 provisions relating to certifications; to harmonize
 10 provisions; to repeal the original sections; and to
 11 declare an emergency.
 12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1001, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-1001 Sections 79-1001 to 79-1033 and section 11 of
4 this act shall be known and may be cited as the Tax Equity and
5 Educational Opportunities Support Act.

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

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

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

1 school allowance, and focus school and program allowance, (d) for
2 school fiscal year 2009-10, the difference of the product of the
3 general fund operating expenditures as calculated pursuant to
4 subdivision (21) of this section multiplied by the cost growth factor
5 calculated pursuant to section 79-1007.10 minus the transportation
6 allowance, special receipts allowance, poverty allowance, limited
7 English proficiency allowance, distance education and
8 telecommunications allowance, elementary site allowance, elementary
9 class size allowance, summer school allowance, instructional time
10 allowance, and focus school and program allowance, (e) for school
11 fiscal years 2010-11 through 2012-13, the difference of the product
12 of the general fund operating expenditures as calculated pursuant to
13 subdivision (21) of this section multiplied by the cost growth factor
14 calculated pursuant to section 79-1007.10 minus the transportation
15 allowance, special receipts allowance, poverty allowance, limited
16 English proficiency allowance, distance education and
17 telecommunications allowance, elementary site allowance, elementary
18 class size allowance, summer school allowance, instructional time
19 allowance, teacher education allowance, and focus school and program
20 allowance, and (f) for school fiscal year 2013-14 and each school
21 fiscal year thereafter, the difference of the product of the general
22 fund operating expenditures as calculated pursuant to subdivision
23 (21) of this section multiplied by the cost growth factor calculated
24 pursuant to section 79-1007.10 minus the transportation allowance,
25 special receipts allowance, poverty allowance, limited English

1 proficiency allowance, distance education and telecommunications
2 allowance, elementary site allowance, summer school allowance,
3 instructional time allowance, teacher education allowance, and focus
4 school and program allowance;

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

15 (3) Allocated income tax funds means the amount of
16 assistance paid to a local system pursuant to section 79-1005.01 or
17 79-1005.02 as adjusted by the minimum levy adjustment pursuant to
18 section 79-1008.02;

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

23 (5) Average daily membership means the average daily
24 membership for grades kindergarten through twelve attributable to the
25 local system, as provided in each district's annual statistical

1 summary, and includes the proportionate share of students enrolled in
2 a public school instructional program on less than a full-time basis;

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

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

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

14 (9) 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 (10) Department means the State Department of Education;

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

22 (12) Ensuing school fiscal year means the school fiscal
23 year following the current school fiscal year;

24 (13) Equalization aid means the amount of assistance
25 calculated to be paid to a local system pursuant to sections

1 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, ~~and~~
2 79-1022.02, and 79-1028.02 and section 11 of this act;

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

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

9 (16) Formula students means:

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

25 (b) For school fiscal year 2008-09 and each school fiscal

1 year thereafter, (i) for state aid certified pursuant to section
2 79-1022, the sum of the product of fall membership from the school
3 fiscal year immediately preceding the school fiscal year in which the
4 aid is to be paid multiplied by the average ratio of average daily
5 membership to fall membership for the second school fiscal year
6 immediately preceding the school fiscal year in which the aid is to
7 be paid and the prior two school fiscal years plus sixty percent of
8 the qualified early childhood education fall membership plus
9 tuitioned students from the school fiscal year immediately preceding
10 the school fiscal year in which aid is to be paid minus the product
11 of the number of students enrolled in kindergarten that is not full-
12 day kindergarten from the fall membership multiplied by 0.5 and (ii)
13 for final calculation of state aid pursuant to section 79-1065, the
14 sum of average daily membership plus sixty percent of the qualified
15 early childhood education average daily membership plus tuitioned
16 students minus the product of the number of students enrolled in
17 kindergarten that is not full-day kindergarten from the average daily
18 membership multiplied by 0.5 from the school fiscal year immediately
19 preceding the school fiscal year in which aid was paid;

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

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

1 (19) General fund budget of expenditures means the total
2 budget of disbursements and transfers for general fund purposes as
3 certified in the budget statement adopted pursuant to the Nebraska
4 Budget Act, except that for purposes of the limitation imposed in
5 section 79-1023 and the calculation pursuant to subdivision (2) of
6 section 79-1027.01, the general fund budget of expenditures does not
7 include any special grant funds, exclusive of local matching funds,
8 received by a district;

9 (20) General fund expenditures means all expenditures
10 from the general fund;

11 (21) General fund operating expenditures means:

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

23 (b) For state aid calculated for school fiscal year
24 2008-09, as reported for the second school fiscal year immediately
25 preceding the school fiscal year in which aid is to be paid on the

1 annual financial report submitted prior to December 1 of the school
2 fiscal year immediately preceding the school fiscal year in which aid
3 is to be paid, the total general fund expenditures minus (i) the
4 amount of all receipts to the general fund, to the extent that such
5 receipts are not included in local system formula resources, from
6 early childhood education tuition, summer school tuition, educational
7 entities as defined in section 79-1201.01 for providing distance
8 education courses through the Educational Service Unit Coordinating
9 Council to such educational entities, private foundations,
10 individuals, associations, charitable organizations, the textbook
11 loan program authorized by section 79-734, and federal impact aid,
12 (ii) the amount of expenditures for categorical funds, tuition paid,
13 transportation fees paid to other districts, adult education,
14 community services, redemption of the principal portion of general
15 fund debt service, retirement incentive plans authorized by section
16 79-855, and staff development assistance authorized by section
17 79-856, and (iii) the amount of any transfers from the general fund
18 to any bond fund and transfers from other funds into the general
19 fund;

20 (c) For state aid calculated for school fiscal year
21 2009-10, as reported on the annual financial report for the second
22 school fiscal year immediately preceding the school fiscal year in
23 which aid is to be paid, the total general fund expenditures minus
24 (i) the amount of all receipts to the general fund, to the extent
25 that such receipts are not included in local system formula

1 resources, from early childhood education tuition, summer school
2 tuition, educational entities as defined in section 79-1201.01 for
3 providing distance education courses through the Educational Service
4 Unit Coordinating Council to such educational entities, private
5 foundations, individuals, associations, charitable organizations, the
6 textbook loan program authorized by section 79-734, and federal
7 impact aid, (ii) the amount of expenditures for categorical funds,
8 tuition paid, transportation fees paid to other districts, adult
9 education, community services, redemption of the principal portion of
10 general fund debt service, retirement incentive plans authorized by
11 section 79-855, and staff development assistance authorized by
12 section 79-856, (iii) the amount of any transfers from the general
13 fund to any bond fund and transfers from other funds into the general
14 fund, and (iv) any legal expenses in excess of fifteen-hundredths of
15 one percent of the formula need for the school fiscal year in which
16 the expenses occurred; and

17 (d) For state aid calculated for school fiscal year
18 2010-11 and each school fiscal year thereafter, as reported on the
19 annual financial report for the second school fiscal year immediately
20 preceding the school fiscal year in which aid is to be paid, the
21 total general fund expenditures minus (i) the amount of all receipts
22 to the general fund, to the extent that such receipts are not
23 included in local system formula resources, from early childhood
24 education tuition, summer school tuition, educational entities as
25 defined in section 79-1201.01 for providing distance education

1 courses through the Educational Service Unit Coordinating Council to
2 such educational entities, private foundations, individuals,
3 associations, charitable organizations, the textbook loan program
4 authorized by section 79-734, federal impact aid, and levy override
5 elections pursuant to section 77-3444, (ii) the amount of
6 expenditures for categorical funds, tuition paid, transportation fees
7 paid to other districts, adult education, community services,
8 redemption of the principal portion of general fund debt service,
9 retirement incentive plans authorized by section 79-855, and staff
10 development assistance authorized by section 79-856, (iii) the amount
11 of any transfers from the general fund to any bond fund and transfers
12 from other funds into the general fund, (iv) any legal expenses in
13 excess of fifteen-hundredths of one percent of the formula need for
14 the school fiscal year in which the expenses occurred, (v)
15 expenditures to pay for sums agreed to be paid by a school district
16 to certificated employees in exchange for a voluntary termination
17 occurring prior to July 1, 2009, and (vi)(A) expenditures in school
18 fiscal years 2009-10 through 2013-14 to pay for employer
19 contributions pursuant to subsection (2) of section 79-958 to the
20 School Retirement System of the State of Nebraska to the extent that
21 such expenditures exceed the employer contributions under such
22 subsection that would have been made at a contribution rate of seven
23 and thirty-five hundredths percent or (B) expenditures in school
24 fiscal years 2009-10 through 2013-14 to pay for school district
25 contributions pursuant to subdivision (1)(c)(i) of section 79-9,113

1 to the Class V School Employees Retirement System to the extent that
2 such expenditures exceed the school district contributions under such
3 subdivision that would have been made at a contribution rate of seven
4 and thirty-seven hundredths percent.

5 For purposes of this subdivision (21) of this section,
6 receipts from levy override elections shall equal ninety-nine percent
7 of the difference of the total general fund levy minus a levy of one
8 dollar and five cents per one hundred dollars of taxable valuation
9 multiplied by the assessed valuation for school districts that have
10 voted pursuant to section 77-3444 to override the maximum levy
11 provided pursuant to section 77-3442;

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

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

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

21 (25) Limited English proficiency students means (a) for
22 school fiscal years prior to school fiscal year 2009-10, the number
23 of students with limited English proficiency in a district from the
24 most recent data available on November 1 of the school fiscal year
25 preceding the school fiscal year in which aid is to be paid and (b)

1 for school fiscal year 2009-10 and each school fiscal year
2 thereafter, the number of students with limited English proficiency
3 in a district from the most recent data available on November 1 of
4 the school fiscal year preceding the school fiscal year in which aid
5 is to be paid plus the difference of such students with limited
6 English proficiency minus the average number of limited English
7 proficiency students for such district, prior to such addition, for
8 the three immediately preceding school fiscal years if such
9 difference is greater than zero;

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

20 (27) Low-income child means (a) for school fiscal years
21 prior to 2008-09, a child under nineteen years of age living in a
22 household having an annual adjusted gross income of fifteen thousand
23 dollars or less for the second calendar year preceding the beginning
24 of the school fiscal year for which aid is being calculated and (b)
25 for school fiscal year 2008-09 and each school fiscal year

1 thereafter, a child under nineteen years of age living in a household
2 having an annual adjusted gross income for the second calendar year
3 preceding the beginning of the school fiscal year for which aid is
4 being calculated equal to or less than the maximum household income
5 that would allow a student from a family of four people to be a free
6 lunch and free milk student during the school fiscal year immediately
7 preceding the school fiscal year for which aid is being calculated;

8 (28) Low-income students means the number of low-income
9 children within the district multiplied by the ratio of the formula
10 students in the district divided by the total children under nineteen
11 years of age residing in the district as derived from income tax
12 information;

13 (29) Most recently available complete data year means the
14 most recent single school fiscal year for which the annual financial
15 report, fall school district membership report, annual statistical
16 summary, Nebraska income tax liability by school district for the
17 calendar year in which the majority of the school fiscal year falls,
18 and adjusted valuation data are available;

19 (30) Poverty students means (a) for school fiscal years
20 prior to school fiscal year 2009-10, the number of low-income
21 students or the number of students who are free lunch and free milk
22 students in a district, whichever is greater, and (b) for school
23 fiscal year 2009-10 and each school fiscal year thereafter, the
24 number of low-income students or the number of students who are free
25 lunch and free milk students in a district plus the difference of the

1 number of low-income students or the number of students who are free
2 lunch and free milk students in a district, whichever is greater,
3 minus the average number of poverty students for such district, prior
4 to such addition, for the three immediately preceding school fiscal
5 years if such difference is greater than zero;

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

21 (32) Qualified early childhood education fall membership
22 means the product of membership on the last Friday in September 2006
23 and each year thereafter of students who will be eligible to attend
24 kindergarten the following school year and are enrolled in an early
25 childhood education program approved by the department pursuant to

1 section 79-1103 for such school district for such school year
2 multiplied by the ratio of the planned instructional hours of the
3 program divided by one thousand thirty-two if: (a) The program is
4 receiving a grant pursuant to such section for the third year; (b)
5 the program has already received grants pursuant to such section for
6 three years; or (c) the program has been approved pursuant to
7 subsection (5) of section 79-1103 for such school year and the two
8 preceding school years, including any such students in portions of
9 any of such programs receiving an expansion grant;

10 (33) Regular route transportation means the
11 transportation of students on regularly scheduled daily routes to and
12 from the attendance center;

13 (34) Reorganized district means any district involved in
14 a consolidation and currently educating students following
15 consolidation;

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

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

20 (a)(i) Less than two students per square mile in the
21 county in which each high school is located, based on the school
22 district census, (ii) less than one formula student per square mile
23 in the local system, and (iii) more than ten miles between each high
24 school attendance center and the next closest high school attendance
25 center on paved roads;

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

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

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

13 (37) Special education means specially designed
14 kindergarten through grade twelve instruction pursuant to section
15 79-1125, and includes special education transportation;

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

24 (39) State aid means the amount of assistance paid to a
25 district pursuant to the Tax Equity and Educational Opportunities

1 Support Act;

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

3 (41) State support means all funds provided to districts
4 by the State of Nebraska for the general fund support of elementary
5 and secondary education;

6 (42) Statewide average basic funding per formula student
7 means the statewide total basic funding for all districts divided by
8 the statewide total formula students for all districts;

9 (43) Statewide average general fund operating
10 expenditures per formula student means the statewide total general
11 fund operating expenditures for all districts divided by the
12 statewide total formula students for all districts;

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

14 (45) Temporary aid adjustment factor means (a) for school
15 fiscal years before school fiscal year 2007-08, one and one-fourth
16 percent of the sum of the local system's transportation allowance,
17 the local system's special receipts allowance, and the product of the
18 local system's adjusted formula students multiplied by the average
19 formula cost per student in the local system's cost grouping and (b)
20 for school fiscal year 2007-08, one and one-fourth percent of the sum
21 of the local system's transportation allowance, special receipts
22 allowance, and distance education and telecommunications allowance
23 and the product of the local system's adjusted formula students
24 multiplied by the average formula cost per student in the local
25 system's cost grouping;

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

4 (47) Very sparse local system means a local system that
5 has:

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

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

17 Sec. 3. Section 79-1007.07, Revised Statutes Cumulative
18 Supplement, 2010, is amended to read:

19 79-1007.07 ~~(1)(a) For school fiscal year 2007-08, the~~
20 ~~annual financial report required pursuant to section 79-528 shall~~
21 ~~include:~~

22 ~~(i) The amount of federal funds received based on poverty~~
23 ~~as defined by the federal program providing the funds; and~~

24 ~~(ii) The expenditures and sources of funding for each~~
25 ~~program related to poverty with a narrative description of the~~

1 ~~program and the method used to allocate money to the program and~~
2 ~~within the program.~~

3 ~~(b) The department shall set up accounting codes for the~~
4 ~~receipts and expenditures required to be reported on the annual~~
5 ~~financial report pursuant to this subsection. The department shall~~
6 ~~also determine for each school district an amount that shall be~~
7 ~~deemed the poverty allowance for purposes of this section. Such~~
8 ~~amount shall equal the adjustments to the weighted formula students~~
9 ~~pursuant to subdivision (1)(c)(iii) of section 79-1007.01 multiplied~~
10 ~~by the average formula cost per student in the school district's cost~~
11 ~~grouping.~~

12 ~~(2)(a) For school fiscal year 2008-09 and each school~~
13 ~~fiscal year thereafter, the~~ (1)(a) ~~The annual financial report~~
14 ~~required pursuant to section 79-528 shall include:~~

15 (i) The amount of the poverty allowance used in the
16 certification of state aid pursuant to section 79-1022 for such
17 school fiscal year;

18 (ii) The amount of federal funds received based on
19 poverty as defined by the federal program providing the funds;

20 (iii) The expenditures and sources of funding for each
21 program related to poverty with a narrative description of the
22 program, the method used to allocate money to the program and within
23 the program, and the program's relationship to the poverty plan
24 submitted pursuant to section 79-1013 for such school fiscal year;

25 (iv) The expenditures and sources of funding for support

1 costs directly attributable to implementing the district's poverty
2 plan; and

3 (v) An explanation of how any required elements of the
4 poverty plan for such school fiscal year were met.

5 (b) The department shall set up accounting codes for the
6 receipts and expenditures required to be reported on the annual
7 financial report pursuant to this subsection.

8 ~~(3) For school fiscal year 2009-10 and each school fiscal~~
9 ~~year thereafter, the~~ (2) The department shall determine the poverty
10 allowance expenditures using the reported expenditures on the annual
11 financial report for the most recently available complete data year
12 that would include in the poverty allowance expenditures only those
13 expenditures that were used to specifically address issues related to
14 the education of students living in poverty or to the implementation
15 of the poverty plan, that do not replace expenditures that would have
16 occurred if the students involved in the program did not live in
17 poverty, that are not included in other allowances, and that are paid
18 for with noncategorical funds generated by state or local taxes or
19 funds distributed through the Tax Equity and Educational
20 Opportunities Support Act pursuant to the federal American Recovery
21 and Reinvestment Act of 2009 or the federal Education Jobs Fund
22 created pursuant to Public Law 111-226. The department shall
23 establish a procedure to allow school districts to receive
24 preapproval for categories of expenditures that could be included in
25 poverty allowance expenditures.

1 ~~(4) For school fiscal year 2009-10 and each school fiscal~~
2 ~~year thereafter, if~~ (3) If the poverty allowance expenditures do not
3 equal 117.65 percent or more of the poverty allowance for the most
4 recently available complete data year, the department shall calculate
5 a poverty allowance correction. The poverty allowance correction
6 shall equal the poverty allowance minus eighty-five percent of the
7 poverty allowance expenditures. If the poverty allowance expenditures
8 do not equal fifty percent or more of the allowance for such school
9 fiscal year, the school district shall also be disqualified from
10 receiving a poverty allowance for the school fiscal year for which
11 aid is being calculated.

12 ~~(5) For school fiscal year 2010-11 and each school fiscal~~
13 ~~year thereafter, if~~ (4) If the department determines that the school
14 district did not meet the required elements of the poverty plan for
15 the most recently available complete data year, the department shall
16 calculate a poverty allowance correction equal to fifty percent of
17 the poverty allowance for such school fiscal year and the school
18 district shall also be disqualified from receiving a poverty
19 allowance for the school fiscal year for which aid is being
20 calculated. Any poverty allowance correction calculated pursuant to
21 this subsection shall be added to any poverty allowance correction
22 calculated pursuant to subsection ~~(4)~~-(3) of this section to arrive
23 at the total poverty allowance correction.

24 ~~(6)~~-(5) The department may request additional information
25 from any school district to assist with calculations and

1 determinations pursuant to this section. If the school district does
2 not provide information upon the request of the department pursuant
3 to this section, the school district shall be disqualified from
4 receiving a poverty allowance for the school fiscal year for which
5 aid is being calculated.

6 ~~(7)~~—(6) The department shall annually provide the
7 Legislature with a report containing a general description of the
8 expenditures and funding sources for programs related to poverty
9 statewide and specific descriptions of the expenditures and funding
10 sources for programs related to poverty for each school district.

11 ~~(8)~~—(7) The state board shall establish a procedure for
12 appeal of decisions of the department to the state board for a final
13 determination.

14 Sec. 4. Section 79-1007.09, Revised Statutes Cumulative
15 Supplement, 2010, is amended to read:

16 79-1007.09 ~~(1)(a) For school fiscal year 2007-08, the~~
17 ~~annual financial report required pursuant to section 79-528 shall~~
18 ~~include:~~

19 ~~(i) The amount of federal funds received based on~~
20 ~~students who are limited English proficient as defined by the federal~~
21 ~~program providing the funds; and~~

22 ~~(ii) The expenditures and sources of funding for each~~
23 ~~program related to limited English proficiency with a narrative~~
24 ~~description of the program and the method used to allocate money to~~
25 ~~the program and within the program.~~

1 ~~(b) The department shall set up accounting codes for the~~
2 ~~receipts and expenditures required to be reported on the annual~~
3 ~~financial report pursuant to this subsection. The department shall~~
4 ~~also determine for each school district an amount that shall be~~
5 ~~deemed the limited English proficiency allowance for purposes of this~~
6 ~~section. Such amount shall equal the adjustments to the weighted~~
7 ~~formula students pursuant to subdivision (1)(c)(ii) of section~~
8 ~~79-1007.01 multiplied by the average formula cost per student in the~~
9 ~~school district's cost grouping.~~

10 ~~(2)(a) For school fiscal year 2008-09 and each school~~
11 ~~fiscal year thereafter, the~~ (1)(a) ~~The annual financial report~~
12 ~~required pursuant to section 79-528 shall include:~~

13 (i) The amount of the limited English proficiency
14 allowance used in the certification of state aid pursuant to section
15 79-1022 for such school fiscal year;

16 (ii) The amount of federal funds received based on
17 students who are limited English proficient as defined by the federal
18 program providing the funds;

19 (iii) The expenditures and sources of funding for each
20 program related to limited English proficiency with a narrative
21 description of the program, the method used to allocate money to the
22 program and within the program, and the program's relationship to the
23 limited English proficiency plan submitted pursuant to section
24 79-1014 for such school fiscal year;

25 (iv) The expenditures and sources of funding for support

1 costs directly attributable to implementing the district's limited
2 English proficiency plan; and

3 (v) An explanation of how any required elements of the
4 limited English proficiency plan for such school fiscal year were
5 met.

6 (b) The department shall set up accounting codes for the
7 receipts and expenditures required to be reported on the annual
8 financial report pursuant to this subsection.

9 ~~(3) For school fiscal year 2009-10 and each school fiscal~~
10 ~~year thereafter, the~~ (2) The department shall determine the limited
11 English proficiency allowance expenditures using the reported
12 expenditures on the annual financial report for the most recently
13 available complete data year that would only include in the limited
14 English proficiency allowance expenditures those expenditures that
15 were used to specifically address issues related to the education of
16 students with limited English proficiency or to the implementation of
17 the limited English proficiency plan, that do not replace
18 expenditures that would have occurred if the students involved in the
19 program did not have limited English proficiency, that are not
20 included in other allowances, and that are paid for with
21 noncategorical funds generated by state or local taxes or funds
22 distributed through the Tax Equity and Educational Opportunities
23 Support Act pursuant to the federal American Recovery and
24 Reinvestment Act of 2009 or the federal Education Jobs Fund created
25 pursuant to Public Law 111-226. The department shall establish a

1 procedure to allow school districts to receive preapproval for
2 categories of expenditures that could be included in limited English
3 proficiency allowance expenditures.

4 ~~(4) For school fiscal year 2009-10 and each school fiscal~~
5 ~~year thereafter, if (3) If~~ the limited English proficiency allowance
6 expenditures do not equal 117.65 percent or more of the limited
7 English proficiency allowance for the most recently available
8 complete data year, the department shall calculate a limited English
9 proficiency allowance correction. The limited English proficiency
10 allowance correction shall equal the limited English proficiency
11 allowance minus eighty-five percent of the limited English
12 proficiency allowance expenditures. If the limited English
13 proficiency allowance expenditures do not equal fifty percent or more
14 of the allowance for such school fiscal year, the school district
15 shall also be disqualified from receiving a limited English
16 proficiency allowance for the school fiscal year for which aid is
17 being calculated.

18 ~~(5) For school fiscal year 2010-11 and each school fiscal~~
19 ~~year thereafter, if (4) If~~ the department determines that the school
20 district did not meet the required elements of the limited English
21 proficiency plan for the most recently available complete data year,
22 the department shall calculate a limited English proficiency
23 allowance correction equal to fifty percent of the limited English
24 proficiency allowance for such school fiscal year and the school
25 district shall also be disqualified from receiving a limited English

1 proficiency allowance for the school fiscal year for which aid is
2 being calculated. Any limited English proficiency allowance
3 correction calculated pursuant to this subsection shall be added to
4 any limited English proficiency allowance correction calculated
5 pursuant to subsection ~~(4)~~(3) of this section to arrive at the total
6 limited English proficiency allowance correction.

7 ~~(6)~~(5) The department may request additional information
8 from any school district to assist with calculations and
9 determinations pursuant to this section. If the school district does
10 not provide information upon the request of the department pursuant
11 to this section, the school district shall be disqualified from
12 receiving a limited English proficiency allowance for the school
13 fiscal year for which aid is being calculated.

14 ~~(7)~~(6) The department shall annually provide the
15 Legislature with a report containing a general description of the
16 expenditures and funding sources for programs related to limited
17 English proficiency statewide and specific descriptions of the
18 expenditures and funding sources for programs related to limited
19 English proficiency for each school district.

20 ~~(8)~~(7) The state board shall establish a procedure for
21 appeal of decisions of the department to the state board for a final
22 determination.

23 Sec. 5. Section 79-1008.01, Revised Statutes Cumulative
24 Supplement, 2010, is amended to read:

25 79-1008.01 ~~Except~~ For all school fiscal years except

1 school fiscal year 2010-11, except as provided in sections 79-1008.02
2 to 79-1010, each local system shall receive equalization aid in the
3 amount that the total formula need of each local system, as
4 determined pursuant to sections 79-1007.01 to 79-1007.23 and section
5 79-1007.25, exceeds its total formula resources as determined
6 pursuant to sections 79-1015.01 to 79-1018.01.

7 For school fiscal year 2010-11, except as provided in
8 sections 79-1008.02 to 79-1010, each local system shall receive
9 equalization aid in the amount by which one hundred two and twenty-
10 three hundredths percent of the total formula need of each local
11 system, as determined pursuant to sections 79-1007.01 to 79-1007.23
12 and section 79-1007.25, exceeds its total formula resources as
13 determined pursuant to sections 79-1015.01 to 79-1018.01.

14 Sec. 6. Section 79-1022, Revised Statutes Cumulative
15 Supplement, 2010, is amended to read:

16 79-1022 (1) On or before March 10, 2010, ~~on or before~~
17 ~~April 1, 2011, and March 1, 2011, for school fiscal year 2010-11, on~~
18 or before July 1, 2011, for school fiscal year 2011-12, and on or
19 before March 1 of each year thereafter for each ensuing fiscal year,
20 the department shall determine the amounts to be distributed to each
21 local system and each district pursuant to the Tax Equity and
22 Educational Opportunities Support Act and shall certify the amounts
23 to the Director of Administrative Services, the Auditor of Public
24 Accounts, each learning community, and each district. The amount to
25 be distributed to each district that is not a member of a learning

1 community from the amount certified for a local system shall be
2 proportional based on: ~~(a) For school fiscal years prior to school~~
3 ~~fiscal year 2008-09, the weighted formula students attributed to each~~
4 ~~district in the local system; and (b) for school fiscal year 2008-09~~
5 ~~and each school fiscal year thereafter, the formula students~~
6 attributed to each district in the local system. The amount to be
7 distributed to each district that is a member of a learning community
8 from the amount certified for the local system shall be proportional
9 based on the formula needs calculated for each district in the local
10 system. On or before ~~March 10, 2010, on or before April 1, 2011,~~
11 March 1, 2011, for school fiscal year 2010-11, on or before July 1,
12 2011, for school fiscal year 2011-12, and on or before March 1 of
13 each year thereafter for each ensuing fiscal year, the department
14 shall report the necessary funding level to the Governor, the
15 Appropriations Committee of the Legislature, and the Education
16 Committee of the Legislature. ~~Certified~~ Except as otherwise provided
17 in this subsection, certified state aid amounts, including
18 adjustments pursuant to section 79-1065.02, shall be shown as
19 budgeted non-property-tax receipts and deducted prior to calculating
20 the property tax request in the district's general fund budget
21 statement as provided to the Auditor of Public Accounts pursuant to
22 section 79-1024. Increases in state aid for school fiscal year
23 2010-11 from the first certification in 2010 to the second
24 certification on or before March 1, 2011, shall not require a school
25 district to revise its previously adopted budget statement pursuant

1 to section 13-511 for school fiscal year 2010-11 unless expenditures
2 are increased in such school fiscal year as a result of such
3 increases in state aid. The amount of such increased state aid that
4 has not been included in an amended budget for school fiscal year
5 2010-11 shall be included in the unencumbered cash balance pursuant
6 to section 13-504 for the school fiscal year 2011-12 budget for each
7 school district.

8 (2) Except as provided in this subsection, subsection (8)
9 of section 79-1016, and sections 79-1033 and 79-1065.02, the amounts
10 certified pursuant to subsection (1) of this section shall be
11 distributed in ten as nearly as possible equal payments on the last
12 business day of each month beginning in September of each ensuing
13 school fiscal year and ending in June of the following year, except
14 that when a school district is to receive a monthly payment of less
15 than one thousand dollars, such payment shall be one lump-sum payment
16 on the last business day of December during the ensuing school fiscal
17 year. For school fiscal year 2010-11, payments shall be based on the
18 amounts certified pursuant to subsection (1) of this section on March
19 10, 2010, except that on the last business day of April, the
20 department shall make federal Education Jobs Fund allocations
21 available pursuant to section 11 of this act equal to any increases
22 in state aid for school fiscal year 2010-11 from the first
23 certification in 2010 to the second certification on or before March
24 1, 2011, rounded to the nearest whole dollar.

25 Sec. 7. Section 79-1022.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 79-1022.02 Notwithstanding any other provision of law,
 3 the certification of state aid pursuant to section 79-1022 to be paid
 4 to school districts during ~~school year 2008-09~~ and the certification
 5 of ~~applicable allowable growth rates pursuant to section 79-1026 for~~
 6 school fiscal year ~~2008-09~~ are 2010-11 is null and void with regard
 7 to the total state aid to be paid during school fiscal year 2010-11.
 8 State aid to be paid during such school year and the certifications
 9 pursuant to section 79-1022 shall be recertified ~~and certifications~~
 10 ~~pursuant to section 79-1023 shall be certified on or before April 30,~~
 11 ~~2008, or the fifteenth day after April 3, 2008, whichever occurs~~
 12 ~~later,~~ for the purpose of determining federal Education Jobs Fund
 13 allocations and adjusting the total state aid to be paid to include
 14 such allocations on or before March 1, 2011 using data sources as
 15 they existed on ~~February 1, 2008.~~ March 10, 2010.

16 Sec. 8. Section 79-1023, Revised Statutes Cumulative
 17 Supplement, 2010, is amended to read:

18 79-1023 (1) On or before March 10, 2010, on or before
 19 ~~April-July 1, 2011,~~ and on or before March 1 of each year thereafter,
 20 the department shall determine and certify to each school district
 21 the maximum general fund budget of expenditures minus the special
 22 education budget of expenditures for the immediately following school
 23 fiscal year.

24 (2) Except as provided in section 79-1028.01, no school
 25 district shall have a general fund budget of expenditures minus

1 special grant funds and the special education budget of expenditures
2 more than the greater of (a) the product of the difference of the
3 general fund budget of expenditures minus special grant funds and the
4 special education budget of expenditures for the immediately
5 preceding school fiscal year multiplied by (i) except as otherwise
6 provided in subdivision (a)(ii) of this subsection, the sum of one
7 plus the local system's applicable allowable growth rate or (ii) for
8 school fiscal year 2010-11, the sum of one plus seventy-five
9 hundredths of one percent plus the local system's applicable
10 allowable growth rate or (b)(i) except as otherwise provided in
11 subdivision (b)(ii) of this subsection, the difference of one hundred
12 twenty percent of formula need for such school fiscal year minus the
13 product of the sum of one plus the basic allowable growth rate for
14 such school fiscal year multiplied by the special education budget of
15 expenditures as filed on the school district budget statement on or
16 before September 20 for the immediately preceding school fiscal year
17 or (ii) for school fiscal years 2009-10 and 2010-11, the difference
18 of one hundred sixteen and fifteen-hundredths percent of formula need
19 for such school fiscal year minus the product of the sum of one plus
20 the basic allowable growth rate for such school fiscal year
21 multiplied by the special education budget of expenditures as filed
22 on the school district budget statement on or before September 20 for
23 the immediately preceding school fiscal year.

24 Sec. 9. Section 79-1026.01, Revised Statutes Cumulative
25 Supplement, 2010, is amended to read:

1 79-1026.01 For school fiscal year 2008-09 and each school
2 fiscal year thereafter, on or before March 10, 2010, on or before
3 ~~April~~July 1, 2011, and on or before March 1 of each year thereafter,
4 the department shall determine and certify to each Class II, III, IV,
5 or V district an applicable allowable growth rate carried out at
6 least four decimal places as follows:

7 (1) The department shall establish a target budget level
8 range of general fund operating expenditure levels for each school
9 fiscal year for each school district which shall begin at twenty
10 percent less than the school district's formula need and end at the
11 school district's formula need. The beginning point of the range
12 shall be assigned a number equal to the maximum allowable growth rate
13 established in section 79-1025, and the end point of the range shall
14 be assigned a number equal to the basic allowable growth rate as
15 prescribed in such section such that the lower end of the range shall
16 be assigned the maximum allowable growth rate and the higher end of
17 the range shall be assigned the basic allowable growth rate; and

18 (2) For each school fiscal year, each school district's
19 general fund operating expenditures shall be compared to its target
20 budget level along the range described in subdivision (1) of this
21 section to arrive at an applicable allowable growth rate as follows:
22 If each school district's general fund operating expenditures fall
23 below the lower end of the range, such applicable allowable growth
24 rate shall be the maximum growth rate identified in section 79-1025.
25 If each school district's general fund operating expenditures are

1 greater than the higher end of the range, the school district's
 2 allowable growth rate shall be the basic allowable growth rate
 3 identified in such section. If each school district's general fund
 4 operating expenditures fall between the lower end and the higher end
 5 of the range, the department shall use a linear interpolation
 6 calculation between the end points of the range to arrive at the
 7 applicable allowable growth rate for the school district.

8 Sec. 10. Section 79-1027, Revised Statutes Cumulative
 9 Supplement, 2010, is amended to read:

10 79-1027 No district shall adopt a budget, which includes
 11 total requirements of depreciation funds, necessary employee benefit
 12 fund cash reserves, and necessary general fund cash reserves,
 13 exceeding the applicable allowable reserve percentages of total
 14 general fund budget of expenditures as specified in the schedule set
 15 forth in this section.

16	Average daily	Allowable
17	membership of	reserve
18	district	percentage
19	0 - 471	45
20	471.01 - 3,044	35
21	3,044.01 - 10,000	25
22	10,000.01 and over	20

23 On or before March 10, 2010, on or before ~~April~~ July 1,
 24 2011, and on or before March 1 each year thereafter, the department

1 shall determine and certify each district's applicable allowable
2 reserve percentage.

3 Each district with combined necessary general fund cash
4 reserves, total requirements of depreciation funds, and necessary
5 employee benefit fund cash reserves less than the applicable
6 allowable reserve percentage specified in this section may,
7 notwithstanding the district's applicable allowable growth rate,
8 increase its necessary general fund cash reserves such that the total
9 necessary general fund cash reserves, total requirements of
10 depreciation funds, and necessary employee benefit fund cash reserves
11 do not exceed such applicable allowable reserve percentage.

12 Sec. 11. For school fiscal year 2010-11, the federal
13 Education Jobs Fund allocation shall equal any increases in state aid
14 for school fiscal year 2010-11 from the first certification in 2010
15 to the second certification on or before March 1, 2011. Such
16 allocation shall only be payable upon meeting the requirements of
17 this section, including approval by the Governor or his or her
18 designee of either an application pursuant to section 79-1028.02 or
19 an application for funding filed pursuant to this section which meets
20 the requirements of the federal American Recovery and Reinvestment
21 Act of 2009, signed by the superintendent and school board president
22 of a school district and filed with the department by the
23 superintendent of such school district. A school district shall
24 account for, report, and spend such allocation as required by section
25 101 of Public Law 111-226. Such allocation shall not be considered

1 special grant funds and shall be considered state aid for all
2 purposes except as otherwise provided in this section and section 101
3 of Public Law 111-226. Such allocation shall not be adjusted in the
4 final calculation of state aid pursuant to section 79-1065. Such
5 allocation shall be included in the total state aid which may be
6 adjusted pursuant to section 79-1065. Expenditures of such allocation
7 shall be considered expenditures from the general fund of the school
8 district and shall be included in general fund operating
9 expenditures.

10 Sec. 12. Section 79-1028.02, Revised Statutes Cumulative
11 Supplement, 2010, is amended to read:

12 79-1028.02 For each of school fiscal years 2009-10 and
13 2010-11, the American Recovery and Reinvestment Act percentage shall
14 equal the amount of funding from the federal American Recovery and
15 Reinvestment Act of 2009 to be distributed through the Tax Equity and
16 Educational Opportunities Support Act for such school fiscal year
17 divided by the total equalization aid to be distributed pursuant to
18 the Tax Equity and Educational Opportunities Support Act for such
19 school fiscal year. For each school district, the American Recovery
20 and Reinvestment Act allocation shall equal the equalization aid to
21 be distributed to the school district for such school fiscal year
22 multiplied by the American Recovery and Reinvestment Act percentage
23 for such school fiscal year. Such allocation shall only be
24 distributed upon filing of an application signed by the
25 superintendent and school board president of a school district and

1 filed with the department by the superintendent of such school
2 district, which application meets the requirements of the federal
3 American Recovery and Reinvestment Act of 2009 and is approved by the
4 Governor or his or her designee. A school district shall account for,
5 report, and spend such allocation as required by the federal American
6 Recovery and Reinvestment Act of 2009. Such allocation shall not be
7 considered a special grant fund and shall be considered state aid for
8 all purposes except as otherwise provided in this section and the
9 federal American Recovery and Reinvestment Act of 2009. Such
10 allocation shall not be adjusted in the final calculation of state
11 aid pursuant to section 79-1065. Such allocation shall be included in
12 the total state aid which may be adjusted pursuant to section
13 79-1065. Expenditures of such allocation shall be considered
14 expenditures from the general fund of the school district and shall
15 be included in general fund operating expenditures.

16 Sec. 13. Section 79-1031.01, Revised Statutes Cumulative
17 Supplement, 2010, is amended to read:

18 79-1031.01 The Appropriations Committee of the
19 Legislature shall annually include the amount necessary to fund the
20 state aid that will be certified to school districts on or before
21 ~~March 10, 2010, on or before April 1, 2011, March 1, 2011, for school~~
22 fiscal year 2010-11, on or before July 1, 2011, for school fiscal
23 year 2011-12, and on or before March 1 for each ensuing school fiscal
24 year thereafter in its recommendations to the Legislature to carry
25 out the requirements of the Tax Equity and Educational Opportunities

1 Support Act.

2 Sec. 14. Original section 79-1022.02, Reissue Revised
3 Statutes of Nebraska, and sections 79-1001, 79-1003, 79-1007.07,
4 79-1007.09, 79-1008.01, 79-1022, 79-1023, 79-1026.01, 79-1027,
5 79-1028.02, and 79-1031.01, Revised Statutes Cumulative Supplement,
6 2010, are repealed.

7 Sec. 15. Since an emergency exists, this act takes effect
8 when passed and approved according to law.