

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 444**

Introduced by Groene, 42.

Read first time January 20, 2015

Committee:

1 A BILL FOR AN ACT relating to the Tax Equity and Educational  
2 Opportunities Support Act; to amend sections 79-1003, 79-1005.01,  
3 79-1008.01, and 79-1017.01, Reissue Revised Statutes of Nebraska; to  
4 eliminate provisions relating to a minimum levy adjustment; to  
5 harmonize provisions; to repeal the original sections; and to  
6 outright repeal section 79-1008.02, Reissue Revised Statutes of  
7 Nebraska.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1003, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

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

5 (1) Adjusted general fund operating expenditures means (a) for  
6 school fiscal years 2013-14 through 2015-16, the difference of the  
7 general fund operating expenditures as calculated pursuant to subdivision  
8 (22) of this section increased by the cost growth factor calculated  
9 pursuant to section 79-1007.10, minus the transportation allowance,  
10 special receipts allowance, poverty allowance, limited English  
11 proficiency allowance, distance education and telecommunications  
12 allowance, elementary site allowance, summer school allowance,  
13 instructional time allowance, teacher education allowance, and focus  
14 school and program allowance, and (b) for school fiscal year 2016-17 and  
15 each school fiscal year thereafter, the difference of the general fund  
16 operating expenditures as calculated pursuant to subdivision (22) of this  
17 section increased by the cost growth factor calculated pursuant to  
18 section 79-1007.10, minus the transportation allowance, special receipts  
19 allowance, poverty allowance, limited English proficiency allowance,  
20 distance education and telecommunications allowance, elementary site  
21 allowance, summer school allowance, and focus school and program  
22 allowance;

23 (2) Adjusted valuation means the assessed valuation of taxable  
24 property of each local system in the state, adjusted pursuant to the  
25 adjustment factors described in section 79-1016. Adjusted valuation means  
26 the adjusted valuation for the property tax year ending during the school  
27 fiscal year immediately preceding the school fiscal year in which the aid  
28 based upon that value is to be paid. For purposes of determining the  
29 local effort rate yield pursuant to section 79-1015.01, adjusted  
30 valuation does not include the value of any property which a court, by a  
31 final judgment from which no appeal is taken, has declared to be

1 nontaxable or exempt from taxation;

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

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

10 (5) Base fiscal year means the first school fiscal year following  
11 the school fiscal year in which the reorganization or unification  
12 occurred;

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

14 (7) Categorical funds means funds limited to a specific purpose by  
15 federal or state law, including, but not limited to, Title I funds, Title  
16 VI funds, federal vocational education funds, federal school lunch funds,  
17 Indian education funds, Head Start funds, and funds from the Education  
18 Innovation Fund. Categorical funds does not include funds received  
19 pursuant to section 79-1028.02 or 79-1028.04;

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

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

31 (10) Converted contract option student means a student who will be

1 an option student pursuant to the enrollment option program established  
2 in section 79-234 for the school fiscal year for which aid is being  
3 calculated and who would have been covered by a converted contract if the  
4 contract were still in effect and such school fiscal year is the first  
5 school fiscal year for which such contract is not in effect;

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

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

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

13 (14) Equalization aid means the amount of assistance calculated to  
14 be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23,  
15 79-1007.25, 79-1008.01 to 79-1022, 79-1022.02, 79-1028.02, and  
16 79-1028.04;

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

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

23 (17) Formula students means:

24 (a) For state aid certified pursuant to section 79-1022, the sum of  
25 the product of fall membership from the school fiscal year immediately  
26 preceding the school fiscal year in which the aid is to be paid  
27 multiplied by the average ratio of average daily membership to fall  
28 membership for the second school fiscal year immediately preceding the  
29 school fiscal year in which the aid is to be paid and the prior two  
30 school fiscal years plus sixty percent of the qualified early childhood  
31 education fall membership plus tuitioned students from the school fiscal

1 year immediately preceding the school fiscal year in which aid is to be  
2 paid minus the product of the number of students enrolled in kindergarten  
3 that is not full-day kindergarten from the fall membership multiplied by  
4 0.5; and

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

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

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

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

25 (21) General fund expenditures means all expenditures from the  
26 general fund;

27 (22) General fund operating expenditures means for state aid  
28 calculated for school fiscal years 2012-13 and each school fiscal year  
29 thereafter, as reported on the annual financial report for the second  
30 school fiscal year immediately preceding the school fiscal year in which  
31 aid is to be paid, the total general fund expenditures minus (a) the

1 amount of all receipts to the general fund, to the extent that such  
2 receipts are not included in local system formula resources, from early  
3 childhood education tuition, summer school tuition, educational entities  
4 as defined in section 79-1201.01 for providing distance education courses  
5 through the Educational Service Unit Coordinating Council to such  
6 educational entities, private foundations, individuals, associations,  
7 charitable organizations, the textbook loan program authorized by section  
8 79-734, federal impact aid, and levy override elections pursuant to  
9 section 77-3444, (b) the amount of expenditures for categorical funds,  
10 tuition paid, transportation fees paid to other districts, adult  
11 education, community services, redemption of the principal portion of  
12 general fund debt service, retirement incentive plans authorized by  
13 section 79-855, and staff development assistance authorized by section  
14 79-856, (c) the amount of any transfers from the general fund to any bond  
15 fund and transfers from other funds into the general fund, (d) any legal  
16 expenses in excess of fifteen-hundredths of one percent of the formula  
17 need for the school fiscal year in which the expenses occurred, (e)  
18 expenditures to pay for sums agreed to be paid by a school district to  
19 certificated employees in exchange for a voluntary termination occurring  
20 prior to July 1, 2009, occurring on or after the last day of the 2010-11  
21 school year and prior to the first day of the 2013-14 school year, or, to  
22 the extent that a district has demonstrated to the State Board of  
23 Education pursuant to section 79-1028.01 that the agreement will result  
24 in a net savings in salary and benefit costs to the school district over  
25 a five-year period, occurring on or after the first day of the 2013-14  
26 school year, (f)(i) expenditures to pay for employer contributions  
27 pursuant to subsection (2) of section 79-958 to the School Employees  
28 Retirement System of the State of Nebraska to the extent that such  
29 expenditures exceed the employer contributions under such subsection that  
30 would have been made at a contribution rate of seven and thirty-five  
31 hundredths percent or (ii) expenditures to pay for school district

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

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

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

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

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

23 (26) Limited English proficiency students means the number of  
24 students with limited English proficiency in a district from the most  
25 recent data available on November 1 of the school fiscal year preceding  
26 the school fiscal year in which aid is to be paid plus the difference of  
27 such students with limited English proficiency minus the average number  
28 of limited English proficiency students for such district, prior to such  
29 addition, for the three immediately preceding school fiscal years if such  
30 difference is greater than zero;

31 (27) Local system means a learning community for purposes of

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

10 (28) Low-income child means a child under nineteen years of age  
11 living in a household having an annual adjusted gross income for the  
12 second calendar year preceding the beginning of the school fiscal year  
13 for which aid is being calculated equal to or less than the maximum  
14 household income that would allow a student from a family of four people  
15 to be a free lunch and free milk student during the school fiscal year  
16 immediately preceding the school fiscal year for which aid is being  
17 calculated;

18 (29) Low-income students means the number of low-income children  
19 within the district multiplied by the ratio of the formula students in  
20 the district divided by the total children under nineteen years of age  
21 residing in the district as derived from income tax information;

22 (30) Most recently available complete data year means the most  
23 recent single school fiscal year for which the annual financial report,  
24 fall school district membership report, annual statistical summary,  
25 Nebraska income tax liability by school district for the calendar year in  
26 which the majority of the school fiscal year falls, and adjusted  
27 valuation data are available;

28 (31) Poverty students means the number of low-income students or the  
29 number of students who are free lunch and free milk students in a  
30 district plus the difference of the number of low-income students or the  
31 number of students who are free lunch and free milk students in a

1 district, whichever is greater, minus the average number of poverty  
2 students for such district, prior to such addition, for the three  
3 immediately preceding school fiscal years if such difference is greater  
4 than zero;

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

19 (33) Qualified early childhood education fall membership means the  
20 product of membership on the last Friday in September 2006 and each year  
21 thereafter of students who will be eligible to attend kindergarten the  
22 following school year and are enrolled in an early childhood education  
23 program approved by the department pursuant to section 79-1103 for such  
24 school district for such school year multiplied by the ratio of the  
25 planned instructional hours of the program divided by one thousand  
26 thirty-two if: (a) The program is receiving a grant pursuant to such  
27 section for the third year; (b) the program has already received grants  
28 pursuant to such section for three years; or (c) the program has been  
29 approved pursuant to subsection (5) of section 79-1103 for such school  
30 year and the two preceding school years, including any such students in  
31 portions of any of such programs receiving an expansion grant;

1 (34) Regular route transportation means the transportation of  
2 students on regularly scheduled daily routes to and from the attendance  
3 center;

4 (35) Reorganized district means any district involved in a  
5 consolidation and currently educating students following consolidation;

6 (36) School year or school fiscal year means the fiscal year of a  
7 school district as defined in section 79-1091;

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

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

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

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

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

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

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

1 registered warrants and tax anticipation notes, interfund loans,  
2 insurance settlements, and reimbursements to county government for  
3 previous overpayment. The state board shall approve a listing of grants  
4 that qualify as special grant funds;

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

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

8 (42) State support means all funds provided to districts by the  
9 State of Nebraska for the general fund support of elementary and  
10 secondary education;

11 (43) Statewide average basic funding per formula student means the  
12 statewide total basic funding for all districts divided by the statewide  
13 total formula students for all districts;

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

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

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

30 (47) Tuition receipts from converted contracts means tuition  
31 receipts received by a district from another district in the most

1 recently available complete data year pursuant to a converted contract  
2 prior to the expiration of the contract;

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

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

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

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

18 Sec. 2. Section 79-1005.01, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 79-1005.01 (1) An amount equal to the amount appropriated to the  
21 School District Income Tax Fund for distribution in school fiscal year  
22 1992-93 shall be disbursed as option payments as determined under section  
23 79-1009 and as allocated income tax funds as determined in this section  
24 and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, ~~except~~  
25 ~~as provided in section 79-1008.02. Funds not distributed as allocated~~  
26 ~~income tax funds due to minimum levy adjustments shall not increase the~~  
27 ~~amount available to local systems for distribution as allocated income~~  
28 ~~tax funds.~~

29 (2) Not later than November 15 of each year, the Tax Commissioner  
30 shall certify to the department for the preceding tax year the income tax  
31 liability of resident individuals for each local system. The 1996 income

1 tax liability of resident individuals of Class I districts that are  
2 affiliated with multiple high school districts shall be divided between  
3 local systems based on the percentage of the Class I district's valuation  
4 affiliated with each high school district.

5 (3) Using the data certified by the Tax Commissioner pursuant to  
6 subsection (2) of this section, the department shall calculate the  
7 allocation percentage and each local system's allocated income tax funds.  
8 The allocation percentage shall be an amount equal to the amount  
9 appropriated to the School District Income Tax Fund for distribution in  
10 school fiscal year 1992-93 minus the total amount paid for option  
11 students pursuant to section 79-1009 and (a) for aid calculated for  
12 school fiscal year 2010-11, minus twenty million dollars and (b) for aid  
13 calculated for school fiscal years 2011-12 and 2012-13, minus twenty-one  
14 million dollars with the difference divided by the aggregate statewide  
15 income tax liability of all resident individuals certified pursuant to  
16 subsection (2) of this section. Each local system's allocated income tax  
17 funds shall be calculated by multiplying the allocation percentage times  
18 the local system's income tax liability certified pursuant to subsection  
19 (2) of this section.

20 Sec. 3. Section 79-1008.01, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 79-1008.01 For all school fiscal years except school fiscal year  
23 2010-11, except as provided in section ~~sections 79-1008.02 and~~ 79-1009,  
24 each local system shall receive equalization aid in the amount that the  
25 total formula need of each local system, as determined pursuant to  
26 sections 79-1007.04 to 79-1007.23 and 79-1007.25, exceeds its total  
27 formula resources as determined pursuant to sections 79-1015.01 to  
28 79-1018.01.

29 For school fiscal year 2010-11, except as provided in section  
30 ~~sections 79-1008.02 and~~ 79-1009, each local system shall receive  
31 equalization aid in the amount by which one hundred two and twenty-three

1 hundredths percent of the total formula need of each local system, as  
2 determined pursuant to sections 79-1007.04 to 79-1007.23 and 79-1007.25,  
3 exceeds its total formula resources as determined pursuant to sections  
4 79-1015.01 to 79-1018.01.

5 Sec. 4. Section 79-1017.01, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 79-1017.01 (1) For state aid calculated for school fiscal year  
8 2013-14, local system formula resources includes retirement aid  
9 determined under section 79-1028.03, teacher education aid determined for  
10 each district pursuant to subdivision (2) of section 79-1007.25,  
11 instructional time aid determined pursuant to subsection (2) of section  
12 79-1007.23, and allocated income tax funds determined for each district  
13 pursuant to section 79-1005.01, ~~and adjustments pursuant to section~~  
14 ~~79-1008.02~~ and is reduced by amounts paid by the district in the most  
15 recently available complete data year as property tax refunds pursuant to  
16 or in the manner prescribed by section 77-1736.06.

17 (2) For state aid calculated for school fiscal years 2014-15 and  
18 2015-16, local system formula resources includes teacher education aid  
19 determined for each district pursuant to section 79-1007.25,  
20 instructional time aid determined pursuant to subsection (2) of section  
21 79-1007.23, and allocated income tax funds determined for each district  
22 pursuant to section 79-1005.01, ~~and adjustments pursuant to section~~  
23 ~~79-1008.02~~ and is reduced by amounts paid by the district in the most  
24 recently available complete data year as property tax refunds pursuant to  
25 or in the manner prescribed by section 77-1736.06.

26 (3) For state aid calculated for school fiscal year 2016-17 and each  
27 school fiscal year thereafter, local system formula resources includes  
28 allocated income tax funds determined for each district pursuant to  
29 section 79-1005.01 ~~and adjustments pursuant to section 79-1008.02~~ and is  
30 reduced by amounts paid by the district in the most recently available  
31 complete data year as property tax refunds pursuant to or in the manner

1 prescribed by section 77-1736.06.

2       Sec. 5.   Original sections 79-1003, 79-1005.01, 79-1008.01, and  
3 79-1017.01, Reissue Revised Statutes of Nebraska, are repealed.

4       Sec. 6.   The following section is outright repealed: Section  
5 79-1008.02, Reissue Revised Statutes of Nebraska.