

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1156

Introduced by Carlson, 38.

Read first time January 19, 2012

Committee:

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities
2 Support Act; to amend section 79-1024, Revised Statutes
3 Cumulative Supplement, 2010, and sections 79-1001,
4 79-1023, 79-1027, and 79-1028.01, Revised Statutes
5 Supplement, 2011; to exempt certain schools from
6 expenditure limits as prescribed; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-1001, Revised Statutes Supplement,
2 2011, is amended to read:

3 79-1001 Sections 79-1001 to 79-1033 and section 2 of this
4 act shall be known and may be cited as the Tax Equity and Educational
5 Opportunities Support Act.

6 Sec. 2. The spending limitations described in sections
7 79-1023 to 79-1028.01 do not apply to any school district which does
8 not receive equalization aid as described in section 79-1008.01.

9 Sec. 3. Section 79-1023, Revised Statutes Supplement,
10 2011, is amended to read:

11 79-1023 (1) On or before March 10, 2010, on or before
12 July 1, 2011, and on or before March 1 of each year thereafter, the
13 department shall determine and certify ~~to each school district~~ budget
14 authority for the general fund budget of expenditures for the
15 immediately following school fiscal year to each school district
16 which receives equalization aid.

17 (2) For school fiscal years prior to school fiscal year
18 2011-12, except as provided in section 79-1028.01, no school district
19 shall have a general fund budget of expenditures minus special grant
20 funds and the special education budget of expenditures more than the
21 greater of (a) the product of the difference of the general fund
22 budget of expenditures minus special grant funds and the special
23 education budget of expenditures for the immediately preceding school
24 fiscal year multiplied by (i) except as otherwise provided in
25 subdivision (a)(ii) of this subsection, the sum of one plus the local

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

18 (3) For school fiscal year 2011-12, except as provided in
19 sections 79-1028.01, 79-1029, and 79-1030, each school district shall
20 have budget authority for the general fund budget of expenditures
21 equal to the greater of (a) the general fund budget of expenditures
22 for school fiscal year 2010-11 minus exclusions for school fiscal
23 year 2010-11 that fit within subsection (1) of section 79-1028.01
24 with the difference increased by an amount equal to one and one
25 hundred fifteen thousandths percent of the formula need calculated

1 for school fiscal year 2010-11, (b) the general fund budget of
2 expenditures for school fiscal year 2010-11 minus exclusions for
3 school fiscal year 2010-11 that fit within subsection (1) of section
4 79-1028.01 with the difference increased by an amount equal to any
5 student growth adjustment calculated for school fiscal year 2011-12,
6 or (c) one hundred ten percent of formula need for school fiscal year
7 2011-12 minus the special education budget of expenditures as filed
8 on the school district budget statement on or before September 20 for
9 school fiscal year 2010-11, which special education budget of
10 expenditures is increased by the basic allowable growth rate for
11 school fiscal year 2011-12.

12 (4) For school fiscal year 2012-13 and each school fiscal
13 year thereafter, except as provided in sections 79-1028.01, 79-1029,
14 and 79-1030, each school district which receives equalization aid
15 shall have budget authority for the general fund budget of
16 expenditures equal to the greater of (a) the general fund budget of
17 expenditures for the immediately preceding school fiscal year minus
18 exclusions pursuant to subsection (1) of section 79-1028.01 for such
19 school fiscal year with the difference increased by the basic
20 allowable growth rate for the school fiscal year for which budget
21 authority is being calculated, (b) the general fund budget of
22 expenditures for the immediately preceding school fiscal year minus
23 exclusions pursuant to subsection (1) of section 79-1028.01 for such
24 school fiscal year with the difference increased by an amount equal
25 to any student growth adjustment calculated for the school fiscal

1 year for which budget authority is being calculated, or (c) one
2 hundred ten percent of formula need for the school fiscal year for
3 which budget authority is being calculated minus the special
4 education budget of expenditures as filed on the school district
5 budget statement on or before September 20 for the immediately
6 preceding school fiscal year, which special education budget of
7 expenditures is increased by the basic allowable growth rate for the
8 school fiscal year for which budget authority is being calculated.

9 (5) For any school fiscal year for which the budget
10 authority for the general fund budget of expenditures for a school
11 district which receives equalization aid is based on a student growth
12 adjustment, the budget authority for the general fund budget of
13 expenditures for such school district shall be adjusted in future
14 years to reflect any student growth adjustment corrections related to
15 such student growth adjustment.

16 Sec. 4. Section 79-1024, Revised Statutes Cumulative
17 Supplement, 2010, is amended to read:

18 79-1024 (1) The department may require each district
19 which receives equalization aid to submit to the department a
20 duplicate copy of such portions of the district's budget statement as
21 the Commissioner of Education directs. The department may verify any
22 data used to meet the requirements of the Tax Equity and Educational
23 Opportunities Support Act. The Auditor of Public Accounts shall
24 review each district's budget statement for statutory compliance,
25 make necessary changes in the budget documents for districts to

1 effectuate the budget limitations imposed pursuant to sections
2 79-1023 to 79-1030, and notify the Commissioner of Education of any
3 district failing to submit to the auditor the budget documents
4 required pursuant to this subsection by the date established in
5 subsection (1) of section 13-508 or failing to make any corrections
6 of errors in the documents pursuant to section 13-504 or 13-511.

7 (2) If a school district which receives equalization aid
8 fails to submit to the department or the auditor the budget documents
9 required pursuant to subsection (1) of this section by the date
10 established in subsection (1) of section 13-508 or fails to make any
11 corrections of errors in the documents pursuant to section 13-504 or
12 13-511, the commissioner, upon notification from the auditor or upon
13 his or her own knowledge that the required budget documents and any
14 required corrections of errors from any such school district have not
15 been properly filed in accordance with the Nebraska Budget Act and
16 after notice to the district and an opportunity to be heard, shall
17 direct that any state aid granted pursuant to the Tax Equity and
18 Educational Opportunities Support Act be withheld until such time as
19 the required budget documents or corrections of errors are received
20 by the auditor and the department. In addition, the commissioner
21 shall direct the county treasurer to withhold all school money
22 belonging to the school district until such time as the commissioner
23 notifies the county treasurer of receipt of the required budget
24 documents or corrections of errors. The county treasurer shall
25 withhold such money. For school districts that are members of

1 learning communities, a determination of school money belonging to
2 the district shall be based on the proportionate share of property
3 tax receipts allocated to the school district by the learning
4 community coordinating council, and the county treasurer shall
5 withhold any such school money in the possession of the county
6 treasurer from the school district. If the school district does not
7 comply with this section prior to the end of the state's biennium
8 following the biennium which included the fiscal year for which state
9 aid was calculated, the state aid funds shall revert to the General
10 Fund. The amount of any reverted funds shall be included in data
11 provided to the Governor in accordance with section 79-1031. The
12 board of any district failing to submit to the department or the
13 auditor the budget documents required pursuant to this section by the
14 date established in subsection (1) of section 13-508 or failing to
15 make any corrections of errors in the documents pursuant to section
16 13-504 or 13-511 shall be liable to the school district for all
17 school money which such district may lose by such failing.

18 Sec. 5. Section 79-1027, Revised Statutes Supplement,
19 2011, is amended to read:

20 79-1027 No district which receives equalization aid shall
21 adopt a budget, which includes total requirements of depreciation
22 funds, necessary employee benefit fund cash reserves, and necessary
23 general fund cash reserves, exceeding the applicable allowable
24 reserve percentages of total general fund budget of expenditures as
25 specified in the schedule set forth in this section.

1	Average daily	Allowable
2	membership of	reserve
3	district	percentage
4	0 - 471	45
5	471.01 - 3,044	35
6	3,044.01 - 10,000	25
7	10,000.01 and over	20

8 On or before March 10, 2010, on or before July 1, 2011,
 9 and on or before March 1 each year thereafter, the department shall
 10 determine and certify each such district's applicable allowable
 11 reserve percentage.

12 Each district which receives equalization aid with
 13 combined necessary general fund cash reserves, total requirements of
 14 depreciation funds, and necessary employee benefit fund cash reserves
 15 less than the applicable allowable reserve percentage specified in
 16 this section may, notwithstanding the district's applicable allowable
 17 growth rate, increase its necessary general fund cash reserves such
 18 that the total necessary general fund cash reserves, total
 19 requirements of depreciation funds, and necessary employee benefit
 20 fund cash reserves do not exceed such applicable allowable reserve
 21 percentage.

22 Sec. 6. Section 79-1028.01, Revised Statutes Supplement,
 23 2011, is amended to read:

24 79-1028.01 (1) For each school fiscal year, a school

1 district which receives equalization aid may exceed its budget
2 authority for the general fund budget of expenditures as calculated
3 pursuant to section 79-1023 for such school fiscal year by a specific
4 dollar amount for the following exclusions:

5 (a) Expenditures for repairs to infrastructure damaged by
6 a natural disaster which is declared a disaster emergency pursuant to
7 the Emergency Management Act;

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

13 (c) Expenditures pursuant to the Retirement Incentive
14 Plan authorized in section 79-855 or the Staff Development Assistance
15 authorized in section 79-856;

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

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

22 (f) Expenditures in school fiscal years 2009-10 through
23 2016-17 to pay for employer contributions pursuant to subsection (2)
24 of section 79-958 to the School Employees Retirement System of the
25 State of Nebraska to the extent that such expenditures exceed the

1 employer contributions under such subsection that would have been
2 made at a contribution rate of seven and thirty-five hundredths
3 percent;

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

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

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

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

21 (k) Expenditures of special grant funds.

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

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

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

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

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

25 (3) The state board shall approve, deny, or modify the

1 amount allowed for any exclusions to the budget authority for the
2 general fund budget of expenditures pursuant to this section.

3 Sec. 7. Original section 79-1024, Revised Statutes
4 Cumulative Supplement, 2010, and sections 79-1001, 79-1023, 79-1027,
5 and 79-1028.01, Revised Statutes Supplement, 2011, are repealed.