

LEGISLATIVE BILL 408

Approved by the Governor February 28, 2013

Introduced by Sullivan, 41.

FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend sections 79-1022, 79-1023, 79-1027, and 79-1031.01, Revised Statutes Cumulative Supplement, 2012; to change dates and provisions relating to certification and distribution of state aid; to delete obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-1022, Revised Statutes Cumulative Supplement, 2012, is amended to read:

79-1022 (1) On or before ~~March 10, 2010, and March 1, 2011, for school fiscal year 2010-11, on or before July 1, 2011, for school fiscal year 2011-12, on or before May 1, 2012, for school fiscal year 2012-13,~~ June 1, 2013, and on or before March 1 of each year thereafter for each ensuing fiscal year, the department shall determine the amounts to be distributed to each local system and each district for the ensuing school fiscal year pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, each learning community, and each district. The amount to be distributed to each district that is not a member of a learning community from the amount certified for a local system shall be proportional based on the formula students attributed to each district in the local system. The amount to be distributed to each district that is a member of a learning community from the amount certified for the local system shall be proportional based on the formula needs calculated for each district in the local system. On or before ~~March 1, 2011, for school fiscal year 2010-11, on or before July 1, 2011, for school fiscal year 2011-12, on or before May 1, 2012, for school fiscal year 2012-13,~~ June 1, 2013, and on or before March 1 of each year thereafter for each ensuing fiscal year, the department shall report the necessary funding level for the ensuing school fiscal year to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. The report submitted to the committees of the Legislature shall be submitted electronically. Except as otherwise provided in this subsection, certified state aid amounts, including adjustments pursuant to section 79-1065.02, shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024. ~~Increases in state aid for school fiscal year 2010-11 from the first certification in 2010 to the second certification on or before March 1, 2011, shall not require a school district to revise its previously adopted budget statement pursuant to section 13-511 for school fiscal year 2010-11 unless expenditures are increased in such school fiscal year as a result of such increases in state aid. The amount of such increased state aid that has not been included in an amended budget for school fiscal year 2010-11 shall be included in the unencumbered cash balance pursuant to section 13-504 for the school fiscal year 2011-12 budget for each school district.~~

(2) Except as provided in this subsection, subsection (8) of section 79-1016, and sections 79-1033 and 79-1065.02, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a school district is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year. ~~For school fiscal year 2010-11, payments shall be based on the amounts certified pursuant to subsection (1) of this section on March 10, 2010, except that on the last business day of April, the department shall make federal Education Jobs Fund allocations available pursuant to section 79-1028.04 equal to any increases in state aid for school fiscal year 2010-11 from the first certification in 2010 to the second certification on or before March 1, 2011, rounded to the nearest whole dollar.~~

Sec. 2. Section 79-1023, Revised Statutes Cumulative Supplement, 2012, is amended to read:

79-1023 (1) On or before ~~March 10, 2010, on or before July 1, 2011, on or before May 1, 2012,~~ June 1, 2013, and on or before March 1 of each

year thereafter, the department shall determine and certify to each school district budget authority for the general fund budget of expenditures for the immediately following ensuing school fiscal year.

~~(2) For school fiscal years prior to school fiscal year 2011-12, except as provided in section 79-1028.01, no school district shall have a general fund budget of expenditures minus special grant funds and the special education budget of expenditures more than the greater of (a) the product of the difference of the general fund budget of expenditures minus special grant funds and the special education budget of expenditures for the immediately preceding school fiscal year multiplied by (i) except as otherwise provided in subdivision (a)(ii) of this subsection, the sum of one plus the local system's applicable allowable growth rate or (ii) for school fiscal year 2010-11, the sum of one plus seventy-five hundredths of one percent plus the local system's applicable allowable growth rate or (b)(i) except as otherwise provided in subdivision (b)(ii) of this subsection, the difference of one hundred twenty percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year or (ii) for school fiscal years 2009-10 and 2010-11, the difference of one hundred sixteen and fifteen-hundredths percent of formula need for such school fiscal year minus the product of the sum of one plus the basic allowable growth rate for such school fiscal year multiplied by the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year.~~

~~(3) For school fiscal year 2011-12, except as provided in sections 79-1028.01, 79-1029, and 79-1030, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for school fiscal year 2010-11 minus exclusions for school fiscal year 2010-11 that fit within subsection (1) of section 79-1028.01 with the difference increased by an amount equal to one and one hundred fifteen thousandths percent of the formula need calculated for school fiscal year 2010-11, (b) the general fund budget of expenditures for school fiscal year 2010-11 minus exclusions for school fiscal year 2010-11 that fit within subsection (1) of section 79-1028.01 with the difference increased by an amount equal to any student growth adjustment calculated for school fiscal year 2011-12, or (c) one hundred ten percent of formula need for school fiscal year 2011-12 minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for school fiscal year 2010-11, which special education budget of expenditures is increased by the basic allowable growth rate for school fiscal year 2011-12.~~

~~(4) For school fiscal year 2012-13 and each school fiscal year thereafter, except (2) Except as provided in sections 79-1028.01, 79-1029, and 79-1030, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated, (b) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by an amount equal to any student growth adjustment calculated for the school fiscal year for which budget authority is being calculated, or (c) one hundred ten percent of formula need for the school fiscal year for which budget authority is being calculated minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year, which special education budget of expenditures is increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated.~~

~~(5) (3) For any school fiscal year for which the budget authority for the general fund budget of expenditures for a school district is based on a student growth adjustment, the budget authority for the general fund budget of expenditures for such school district shall be adjusted in future years to reflect any student growth adjustment corrections related to such student growth adjustment.~~

Sec. 3. Section 79-1027, Revised Statutes Cumulative Supplement, 2012, is amended to read:

79-1027 No district shall adopt a budget, which includes total requirements of depreciation funds, necessary employee benefit fund cash reserves, and necessary general fund cash reserves, exceeding the applicable

allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

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

On or before ~~March 10, 2010, on or before July 1, 2011, on or before May 1, 2012,~~ June 1, 2013, and on or before March 1 each year thereafter, the department shall determine and certify each district's applicable allowable reserve percentage for the ensuing school fiscal year.

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

Sec. 4. Section 79-1031.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

79-1031.01 The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid that will be certified to school districts on or before ~~March 1, 2011, for school fiscal year 2010-11, on or before July 1, 2011, for school fiscal year 2011-12, on or before May 1, 2012, for school fiscal year 2012-13,~~ June 1, 2013, and on or before March 1 of each year thereafter for each ensuing school fiscal year ~~thereafter~~ in its recommendations to the Legislature to carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

Sec. 5. Original sections 79-1022, 79-1023, 79-1027, and 79-1031.01, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 6. Since an emergency exists, this act takes effect when passed and approved according to law.