

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 640

Introduced by Hadley, 37; Ashford, 20; Campbell, 25; Coash, 27; Cook, 13; Crawford, 45; Dubas, 34; Gloor, 35; Haar, 21; Harr, 8; Howard, 9; Karpisek, 32; Kolowski, 31; Krist, 10; Lathrop, 12; Lautenbaugh, 18; McGill, 26; Mello, 5; Nordquist, 7; Wallman, 30.

Read first time January 23, 2013

Committee: Education

A BILL

1 FOR AN ACT relating to the Tax Equity and Educational Opportunities
2 Support Act; to amend sections 79-1003, 79-1005.01,
3 79-1007.11, 79-1007.16, 79-1008.01, and 79-1009, Revised
4 Statutes Cumulative Supplement, 2012; to redefine a term;
5 to change provisions relating to allocated income tax,
6 calculation of formula need, equalization aid, and net
7 option funding; to harmonize provisions; to repeal the
8 original sections; to outright repeal section 79-1007.18,
9 Revised Statutes Cumulative Supplement, 2012; and to
10 declare an emergency.

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

1 Section 1. Section 79-1003, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

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

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

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

11 (3) Allocated income tax funds means the amount of
12 assistance paid to a local system pursuant to section 79-1005.01 as
13 adjusted by the minimum levy adjustment pursuant to section
14 79-1008.02;

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

20 (5) Base fiscal year means the first school fiscal year
21 following the school fiscal year in which the reorganization or
22 unification occurred;

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

24 (7) Categorical funds means funds limited to a specific
25 purpose by federal or state law, including, but not limited to, Title

1 I funds, Title VI funds, federal vocational education funds, federal
2 school lunch funds, Indian education funds, Head Start funds, and
3 funds from the Education Innovation Fund. Categorical funds does not
4 include funds received pursuant to section 79-1028.02 or 79-1028.04;

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

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

16 (10) Converted contract option student means a student
17 who will be an option student pursuant to the enrollment option
18 program established in section 79-234 for the school fiscal year for
19 which aid is being calculated and who would have been covered by a
20 converted contract if the contract were still in effect and such
21 school fiscal year is the first school fiscal year for which such
22 contract is not in effect;

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

24 (12) District means any Class I, II, III, IV, V, or VI
25 school district and, beginning with the calculation of state aid for

1 school fiscal year 2011-12 and each school fiscal year thereafter, a
2 unified system as defined in section 79-4,108;

3 (13) Ensuing school fiscal year means the school fiscal
4 year following the current school fiscal year;

5 (14) Equalization aid means the amount of assistance
6 calculated to be paid to a local system pursuant to sections
7 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022,
8 79-1022.02, 79-1028.02, and 79-1028.04;

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

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

15 (17) Formula students means:

16 (a) For state aid certified pursuant to section 79-1022,
17 the sum of the product of fall membership from the school fiscal year
18 immediately preceding the school fiscal year in which the aid is to
19 be paid multiplied by the average ratio of average daily membership
20 to fall membership for the second school fiscal year immediately
21 preceding the school fiscal year in which the aid is to be paid and
22 the prior two school fiscal years plus sixty percent of the qualified
23 early childhood education fall membership plus tuitioned students
24 from the school fiscal year immediately preceding the school fiscal
25 year in which aid is to be paid minus the product of the number of

1 students enrolled in kindergarten that is not full-day kindergarten
2 from the fall membership multiplied by 0.5; and

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

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

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

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

25 (21) General fund expenditures means all expenditures

1 from the general fund;

2 (22) General fund operating expenditures means:

3 (a) For state aid calculated for school fiscal years
4 2010-11 and 2011-12, as reported on the annual financial report for
5 the second school fiscal year immediately preceding the school fiscal
6 year in which aid is to be paid, the total general fund expenditures
7 minus (i) the amount of all receipts to the general fund, to the
8 extent that such receipts are not included in local system formula
9 resources, from early childhood education tuition, summer school
10 tuition, educational entities as defined in section 79-1201.01 for
11 providing distance education courses through the Educational Service
12 Unit Coordinating Council to such educational entities, private
13 foundations, individuals, associations, charitable organizations, the
14 textbook loan program authorized by section 79-734, federal impact
15 aid, and levy override elections pursuant to section 77-3444, (ii)
16 the amount of expenditures for categorical funds, tuition paid,
17 transportation fees paid to other districts, adult education,
18 community services, redemption of the principal portion of general
19 fund debt service, retirement incentive plans authorized by section
20 79-855, and staff development assistance authorized by section
21 79-856, (iii) the amount of any transfers from the general fund to
22 any bond fund and transfers from other funds into the general fund,
23 (iv) any legal expenses in excess of fifteen-hundredths of one
24 percent of the formula need for the school fiscal year in which the
25 expenses occurred, (v) expenditures to pay for sums agreed to be paid

1 by a school district to certificated employees in exchange for a
2 voluntary termination occurring prior to July 1, 2009, and (vi)(A)
3 expenditures in school fiscal years 2009-10 through 2013-14 to pay
4 for employer contributions pursuant to subsection (2) of section
5 79-958 to the School Retirement System of the State of Nebraska to
6 the extent that such expenditures exceed the employer contributions
7 under such subsection that would have been made at a contribution
8 rate of seven and thirty-five hundredths percent or (B) expenditures
9 in school fiscal years 2009-10 through 2013-14 to pay for school
10 district contributions pursuant to subdivision (1)(c)(i) of section
11 79-9,113 to the retirement system established pursuant to the Class V
12 School Employees Retirement Act to the extent that such expenditures
13 exceed the school district contributions under such subdivision that
14 would have been made at a contribution rate of seven and thirty-seven
15 hundredths percent; and

16 (b) For state aid calculated for school fiscal years
17 2012-13 and each school fiscal year thereafter, as reported on the
18 annual financial report for the second school fiscal year immediately
19 preceding the school fiscal year in which aid is to be paid, the
20 total general fund expenditures minus (i) the amount of all receipts
21 to the general fund, to the extent that such receipts are not
22 included in local system formula resources, from early childhood
23 education tuition, summer school tuition, educational entities as
24 defined in section 79-1201.01 for providing distance education
25 courses through the Educational Service Unit Coordinating Council to

1 such educational entities, private foundations, individuals,
2 associations, charitable organizations, the textbook loan program
3 authorized by section 79-734, federal impact aid, and levy override
4 elections pursuant to section 77-3444, (ii) the amount of
5 expenditures for categorical funds, tuition paid, transportation fees
6 paid to other districts, adult education, community services,
7 redemption of the principal portion of general fund debt service,
8 retirement incentive plans authorized by section 79-855, and staff
9 development assistance authorized by section 79-856, (iii) the amount
10 of any transfers from the general fund to any bond fund and transfers
11 from other funds into the general fund, (iv) any legal expenses in
12 excess of fifteen-hundredths of one percent of the formula need for
13 the school fiscal year in which the expenses occurred, (v)
14 expenditures to pay for sums agreed to be paid by a school district
15 to certificated employees in exchange for a voluntary termination
16 occurring prior to July 1, 2009, or occurring on or after the last
17 day of the 2010-11 school year and prior to the first day of the
18 2013-14 school year, (vi)(A) expenditures in school fiscal years
19 2009-10 through 2016-17 to pay for employer contributions pursuant to
20 subsection (2) of section 79-958 to the School Employees Retirement
21 System of the State of Nebraska to the extent that such expenditures
22 exceed the employer contributions under such subsection that would
23 have been made at a contribution rate of seven and thirty-five
24 hundredths percent or (B) expenditures in school fiscal years 2009-10
25 through 2016-17 to pay for school district contributions pursuant to

1 subdivision (1)(c)(i) of section 79-9,113 to the retirement system
2 established pursuant to the Class V School Employees Retirement Act
3 to the extent that such expenditures exceed the school district
4 contributions under such subdivision that would have been made at a
5 contribution rate of seven and thirty-seven hundredths percent, and
6 (vii) 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,
9 receipts from levy override elections shall equal ninety-nine percent
10 of the difference of the total general fund levy minus a levy of one
11 dollar and five cents per one hundred dollars of taxable valuation
12 multiplied by the assessed valuation for school districts that have
13 voted pursuant to section 77-3444 to override the maximum levy
14 provided pursuant to section 77-3442;

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

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

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

24 (26) Limited English proficiency students means the
25 number of students with limited English proficiency in a district

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

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

18 (28) Low-income child means a child under nineteen years
19 of age living in a household having an annual adjusted gross income
20 for the second calendar year preceding the beginning of the school
21 fiscal year for which aid is being calculated equal to or less than
22 the maximum household income that would allow a student from a family
23 of four people to be a free lunch and free milk student during the
24 school fiscal year immediately preceding the school fiscal year for
25 which aid is being calculated;

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

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

12 (31) Poverty students means the number of low-income
13 students or the number of students who are free lunch and free milk
14 students in a district plus the difference of the number of low-
15 income students or the number of students who are free lunch and free
16 milk students in a district, whichever is greater, minus the average
17 number of poverty students for such district, prior to such addition,
18 for the three immediately preceding school fiscal years if such
19 difference is greater than zero;

20 (32) Qualified early childhood education average daily
21 membership means the product of the average daily membership for
22 school fiscal year 2006-07 and each school fiscal year thereafter of
23 students who will be eligible to attend kindergarten the following
24 school year and are enrolled in an early childhood education program
25 approved by the department pursuant to section 79-1103 for such

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

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

24 (34) Regular route transportation means the
25 transportation of students on regularly scheduled daily routes to and

1 from the attendance center;

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

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

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

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

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

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

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

1 system;

2 (38) Special education means specially designed
3 kindergarten through grade twelve instruction pursuant to section
4 79-1125, and includes special education transportation;

5 (39) Special grant funds means the budgeted receipts for
6 grants, including, but not limited to, categorical funds,
7 reimbursements for wards of the court, short-term borrowings
8 including, but not limited to, registered warrants and tax
9 anticipation notes, interfund loans, insurance settlements, and
10 reimbursements to county government for previous overpayment. The
11 state board shall approve a listing of grants that qualify as special
12 grant funds;

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

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

17 (42) State support means all funds provided to districts
18 by the State of Nebraska for the general fund support of elementary
19 and secondary education;

20 (43) Statewide average basic funding per formula student
21 means the statewide total basic funding for all districts divided by
22 the statewide total formula students for all districts;

23 (44) Statewide average general fund operating
24 expenditures per formula student means the statewide total general
25 fund operating expenditures for all districts divided by the

1 statewide total formula students for all districts;

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

3 (46) Temporary aid adjustment factor means ~~(a) for school~~
4 ~~fiscal years before school fiscal year 2007-08, one and one fourth~~
5 ~~percent of the sum of the local system's transportation allowance,~~
6 ~~the local system's special receipts allowance, and the product of the~~
7 ~~local system's adjusted formula students multiplied by the average~~
8 ~~formula cost per student in the local system's cost grouping and (b)~~
9 ~~for school fiscal year 2007-08, one and one fourth percent of the sum~~
10 ~~of the local system's transportation allowance, special receipts~~
11 ~~allowance, and distance education and telecommunications allowance~~
12 ~~and the product of the local system's adjusted formula students~~
13 ~~multiplied by the average formula cost per student in the local~~
14 ~~system's cost grouping; 2013-14 and 2014-15, an amount equal to XX~~
15 percent of the total formula need of each local system as determined
16 pursuant to sections 79-1007.04 to 79-1007.23 and 79-1007.25;

17 (47) Tuition receipts from converted contracts means
18 tuition receipts received by a district from another district in the
19 most recently available complete data year pursuant to a converted
20 contract prior to the expiration of the contract;

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

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

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

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

12 Sec. 2. Section 79-1005.01, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 79-1005.01 (1) For state aid calculated for all school
15 fiscal years except school fiscal years 2013-14 and 2014-15:

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

25 ~~(2)~~ (b) Not later than November 15 of each year, the Tax

1 Commissioner shall certify to the department for the preceding tax
2 year the income tax liability of resident individuals for each local
3 system. The 1996 income tax liability of resident individuals of
4 Class I districts that are affiliated with multiple high school
5 districts shall be divided between local systems based on the
6 percentage of the Class I district's valuation affiliated with each
7 high school district; and -

8 ~~(3)-(c)~~ Using the data certified by the Tax Commissioner
9 pursuant to ~~subsection (2) of this section, subdivision (1)(b) of~~
10 this section, the department shall calculate the allocation
11 percentage and each local system's allocated income tax funds. The
12 allocation percentage shall be an amount equal to the amount
13 appropriated to the School District Income Tax Fund for distribution
14 in school fiscal year 1992-93 minus the total amount paid for option
15 students pursuant to section 79-1009 and (a) for aid calculated for
16 school fiscal year 2010-11, minus twenty million dollars and (b) for
17 aid calculated for school fiscal years 2011-12 and 2012-13, minus
18 twenty-one million dollars with the difference divided by the
19 aggregate statewide income tax liability of all resident individuals
20 certified pursuant to ~~subsection (2) subdivision (1)(b) of this~~
21 section. Each local system's allocated income tax funds shall be
22 calculated by multiplying the allocation percentage times the local
23 system's income tax liability certified pursuant to ~~subsection (2) of~~
24 this section. subdivision (1)(b) of this section.

25 (2) For school fiscal years 2013-14 and 2014-15:

1 (a) An amount equal to the amount appropriated to the
2 School District Income Tax Fund for distribution in school fiscal
3 year 1992-93 shall be disbursed as option payments as determined
4 under section 79-1009 and as allocated income tax funds as determined
5 in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and
6 79-1018.01, except as provided in section 79-1008.02. Funds not
7 distributed as allocated income tax funds due to minimum levy
8 adjustments shall not increase the amount available to local systems
9 for distribution as allocated income tax funds;

10 (b) Not later than November 15 of each year, the Tax
11 Commissioner shall certify to the department for the preceding tax
12 year the income tax liability of resident individuals for each local
13 system. The 1996 income tax liability of resident individuals of
14 Class I districts that are affiliated with multiple high school
15 districts shall be divided between local systems based on the
16 percentage of the Class I district's valuation affiliated with each
17 high school district; and

18 (c) Using the data certified by the Tax Commissioner
19 pursuant to subdivision (2)(b) of this section, the department shall
20 calculate the allocation percentage and each local system's allocated
21 income tax funds. The allocation percentage shall be an amount equal
22 to the amount appropriated to the School District Income Tax Fund for
23 distribution in school fiscal year 1992-93 minus the total amount
24 paid for option students pursuant to section 79-1009. Each local
25 system's allocated income tax funds shall be calculated by

1 multiplying the allocation percentage times the local system's income
2 tax liability certified pursuant to subdivision (2)(b) of this
3 section. Each local system's preliminary allocated income tax funds
4 shall be calculated by multiplying the allocation percentage by the
5 local system's income tax liability certified pursuant to this
6 section. Each local system's allocated income tax funds shall be
7 calculated by subtracting the difference of the temporary aid
8 adjustment factor minus the reduction in net option funds due to the
9 temporary aid adjustment factor from the preliminary allocated income
10 tax funds, except that a local system's allocated income tax funds
11 shall not be less than zero.

12 Sec. 3. Section 79-1007.11, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 79-1007.11 (1) Except as otherwise provided in this
15 section, for school fiscal year 2010-11, each school district's
16 formula need shall equal the difference of the sum of the school
17 district's basic funding, poverty allowance, limited English
18 proficiency allowance, elementary class size allowance, focus school
19 and program allowance, summer school allowance, special receipts
20 allowance, transportation allowance, elementary site allowance,
21 instructional time allowance, teacher education allowance, distance
22 education and telecommunications allowance, averaging adjustment, new
23 learning community transportation adjustment, student growth
24 adjustment, and new school adjustment, minus the sum of the limited
25 English proficiency allowance correction, poverty allowance

1 correction, and local choice adjustment.

2 (2) Except as otherwise provided in this section, for
3 school fiscal years 2011-12 and 2012-13, each school district's
4 formula need shall equal the difference of the sum of the school
5 district's basic funding, poverty allowance, limited English
6 proficiency allowance, elementary class size allowance, focus school
7 and program allowance, summer school allowance, special receipts
8 allowance, transportation allowance, elementary site allowance,
9 instructional time allowance, teacher education allowance, distance
10 education and telecommunications allowance, averaging adjustment, new
11 learning community transportation adjustment, student growth
12 adjustment, any positive student growth adjustment correction, and
13 new school adjustment, minus the sum of the limited English
14 proficiency allowance correction, poverty allowance correction, any
15 negative student growth adjustment correction, and local choice
16 adjustment.

17 (3) Except as otherwise provided in this section, for
18 school fiscal year 2013-14 and each school fiscal year thereafter,
19 each school district's formula need shall equal the difference of the
20 sum of the school district's basic funding, poverty allowance,
21 limited English proficiency allowance, focus school and program
22 allowance, summer school allowance, special receipts allowance,
23 transportation allowance, elementary site allowance, instructional
24 time allowance, teacher education allowance, distance education and
25 telecommunications allowance, ~~averaging adjustment,~~ new learning

1 community transportation adjustment, student growth adjustment, any
2 positive student growth adjustment correction, and new school
3 adjustment, minus the sum of the limited English proficiency
4 allowance correction, poverty allowance correction, any negative
5 student growth adjustment correction, and local choice adjustment.

6 (4)(a) For state aid calculated for all school fiscal
7 years except school fiscal ~~year~~years 2011-12, 2013-14, and 2014-15,
8 if the formula need calculated for a school district pursuant to
9 subsections (1) through (3) of this section is less than one hundred
10 percent of the formula need for such district for the school fiscal
11 year immediately preceding the school fiscal year for which aid is
12 being calculated, the formula need for such district shall equal one
13 hundred percent of the formula need for such district for the school
14 fiscal year immediately preceding the school fiscal year for which
15 aid is being calculated.

16 (b) For state aid calculated for school fiscal year
17 2011-12, if the formula need calculated for a school district
18 pursuant to subsection (2) of this section is less than ninety-five
19 percent of the formula need for such district for the school fiscal
20 year immediately preceding the school fiscal year for which aid is
21 being calculated, the formula need for such district shall equal
22 ninety-five percent of the formula need for such district for the
23 school fiscal year immediately preceding the school fiscal year for
24 which aid is being calculated.

25 (c) For state aid calculated for school fiscal years

1 2013-14 and 2014-15, if the formula need calculated for a school
2 district pursuant to subsection (3) of this section is less than XX
3 percent of the formula need for such district for the school fiscal
4 year immediately preceding the school fiscal year for which aid is
5 being calculated, the formula need for such district shall equal XX
6 percent of the formula need for such district for the school fiscal
7 year immediately preceding the school fiscal year for which aid is
8 being calculated.

9 (5)(a) For state aid calculated for school fiscal years
10 except school fiscal ~~year~~ years 2011-12, 2013-14, and 2014-15, except
11 as provided in subsection (7) of this section, if the formula need
12 calculated for a school district pursuant to subsections (1) through
13 (3) of this section is more than one hundred twelve percent of the
14 formula need for such district for the school fiscal year immediately
15 preceding the school fiscal year for which aid is being calculated,
16 the formula need for such district shall equal one hundred twelve
17 percent of the formula need for such district for the school fiscal
18 year immediately preceding the school fiscal year for which aid is
19 being calculated, except that the formula need shall not be reduced
20 pursuant to this ~~subsection~~ subdivision for any district receiving a
21 student growth adjustment for the school fiscal year for which aid is
22 being calculated.

23 (b) For state aid calculated for school fiscal year
24 2011-12, except as provided in subsection (7) of this section, if the
25 formula need calculated for a school district pursuant to subsection

1 (2) of this section is more than one hundred seven percent of the
2 formula need for such district for the school fiscal year immediately
3 preceding the school fiscal year for which aid is being calculated,
4 the formula need for such district shall equal one hundred seven
5 percent of the formula need for such district for the school fiscal
6 year immediately preceding the school fiscal year for which aid is
7 being calculated, except that the formula need shall not be reduced
8 pursuant to this ~~subsection~~subdivision for any district receiving a
9 student growth adjustment for the school fiscal year for which aid is
10 being calculated.

11 (c) For state aid calculated for school fiscal years
12 2013-14 and 2014-15, except as provided in subsection (7) of this
13 section, if the formula need calculated for a school district
14 pursuant to subsection (3) of this section is more than XX percent of
15 the formula need for such district for the school fiscal year
16 immediately preceding the school fiscal year for which aid is being
17 calculated, the formula need for such district shall equal XX percent
18 of the formula need for such district for the school fiscal year
19 immediately preceding the school fiscal year for which aid is being
20 calculated, except that the formula need shall not be reduced
21 pursuant to this subdivision for any district receiving a student
22 growth adjustment for the school fiscal year for which aid is being
23 calculated.

24 (6) For purposes of subsections (4) and (5) of this
25 section, the formula need for the school fiscal year immediately

1 preceding the school fiscal year for which aid is being calculated
2 shall be the formula need used in the final calculation of aid
3 pursuant to section 79-1065 and for districts that were affected by a
4 reorganization with an effective date in the calendar year preceding
5 the calendar year in which aid is certified for the school fiscal
6 year for which aid is being calculated, the formula need for the
7 school fiscal year immediately preceding the school fiscal year for
8 which aid is being calculated shall be attributed to the affected
9 school districts based on information provided to the department by
10 the school districts or proportionally based on the adjusted
11 valuation transferred if sufficient information has not been provided
12 to the department.

13 (7) For state aid calculated for the first full school
14 fiscal year of a new learning community, if the formula need
15 calculated for a member school district pursuant to subsections (1)
16 through (4) of this section is less than the sum of the school
17 district's state aid certified for the school fiscal year immediately
18 preceding the first full school fiscal year of the learning community
19 plus the school district's other actual receipts included in local
20 system formula resources pursuant to section 79-1018.01 for such
21 school fiscal year plus the product of the school district's general
22 fund levy for such school fiscal year up to one dollar and five cents
23 multiplied by the school district's assessed valuation for such
24 school fiscal year, the formula need for such school district for the
25 school fiscal year for which aid is being calculated shall equal such

1 sum.

2 Sec. 4. Section 79-1007.16, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 79-1007.16 (1) The department shall calculate basic
5 funding for each district as provided in this section.

6 (2) For state aid calculated for school fiscal years
7 prior to school fiscal year 2011-12:

8 (a) A comparison group shall be established for each
9 district consisting of the districts for which basic funding is being
10 calculated, the five larger districts that are closest in size to the
11 district for which basic funding is being calculated as measured by
12 formula students, and the five smaller districts that are closest in
13 size to the district for which basic funding is being calculated as
14 measured by formula students. If there are not five districts that
15 are larger than the district for which basic funding is being
16 calculated or if there are not five districts that are smaller than
17 the district for which basic funding is being calculated, the
18 comparison group shall consist of only as many districts as fit the
19 criteria. If more than one district has exactly the same number of
20 formula students as the largest or smallest district in the
21 comparison group, all of the districts with exactly the same number
22 of formula students as the largest or smallest districts in the
23 comparison group shall be included in the comparison group. If one or
24 more districts have exactly the same number of formula students as
25 the district for which basic funding is being calculated, all such

1 districts shall be included in the comparison group in addition to
2 the five larger districts and the five smaller districts. The
3 comparison group shall remain the same for the final calculation of
4 aid pursuant to section 79-1065;

5 (b) For districts with nine hundred or more formula
6 students, basic funding shall equal the formula students multiplied
7 by the average of the adjusted general fund operating expenditures
8 per formula student for each district in the comparison group,
9 excluding both the district with the highest adjusted general fund
10 operating expenditures per formula student and the district with the
11 lowest adjusted general fund operating expenditures per formula
12 student of the districts in the comparison group; and

13 (c) For districts with fewer than nine hundred formula
14 students, basic funding shall equal the product of the average of the
15 adjusted general fund operating expenditures for each district in the
16 comparison group, excluding both the district with the highest
17 adjusted general fund operating expenditures and the district with
18 the lowest adjusted general fund operating expenditures of the
19 districts in the comparison group.

20 (3) For state aid calculated for school fiscal year
21 2011-12 and each school fiscal year thereafter:

22 (a) A comparison group shall be established for each
23 district consisting of the districts for which basic funding is being
24 calculated, the ten larger districts that are closest in size to the
25 district for which basic funding is being calculated as measured by

1 formula students, and the ten smaller districts that are closest in
2 size to the district for which basic funding is being calculated as
3 measured by formula students. If there are not ten districts that are
4 larger than the district for which basic funding is being calculated
5 or if there are not ten districts that are smaller than the district
6 for which basic funding is being calculated, the comparison group
7 shall consist of only as many districts as fit the criteria. If more
8 than one district has exactly the same number of formula students as
9 the largest or smallest district in the comparison group, all of the
10 districts with exactly the same number of formula students as the
11 largest or smallest districts in the comparison group shall be
12 included in the comparison group. If one or more districts have
13 exactly the same number of formula students as the district for which
14 basic funding is being calculated, all such districts shall be
15 included in the comparison group in addition to the ten larger
16 districts and the ten smaller districts. The comparison group shall
17 remain the same for the final calculation of aid pursuant to section
18 79-1065;

19 (b)(i) For school fiscal years before school fiscal year
20 2013-14, for districts with nine hundred or more formula students,
21 basic funding shall equal the formula students multiplied by the
22 average of the adjusted general fund operating expenditures per
23 formula student for each district in the comparison group, excluding
24 both the two districts with the highest adjusted general fund
25 operating expenditures per formula student and the two districts with

1 the lowest adjusted general fund operating expenditures per formula
2 student of the districts in the comparison group; and

3 (ii) For school fiscal year 2013-14 and all school fiscal
4 years thereafter, for districts with nine hundred or more formula
5 students, basic funding shall equal the formula students multiplied
6 by the average of the adjusted general fund operating expenditures
7 per formula student for each district in the comparison group,
8 excluding both the district with the highest adjusted general fund
9 operating expenditures per formula student and the district with the
10 lowest adjusted general fund operating expenditures per formula
11 student of the districts in the comparison group. If the district's
12 basic funding per formula student is less than the average basic
13 funding per formula student for all districts with nine hundred or
14 more formula students and the district's general fund levy for the
15 school fiscal year immediately preceding the school fiscal year for
16 which aid is being calculated was at least one dollar and two cents
17 per one hundred dollars of taxable valuation, then for school
18 districts that are members of a learning community, the general fund
19 levy for purposes of this section includes both the common general
20 fund levy and the school district general fund levy authorized
21 pursuant to subdivisions (2)(b) and (2)(c) of section 77-3442, and
22 for all such districts the basic funding per formula student shall be
23 equal to the greater of the district's basic funding per formula
24 student or the district's basic funding per formula student plus the
25 district's formula students multiplied by the difference between the

1 average basic funding per formula student for all districts with nine
2 hundred or more formula students and such district's basic funding
3 per formula student multiplied by the percentage specified in this
4 section for such district. The average basic funding per formula
5 student for all districts with nine hundred or more formula students
6 shall be based on the general fund levy for the school fiscal year
7 immediately preceding the school fiscal year for which aid is being
8 calculated. The percentages used to calculate the average basic
9 funding per formula student for all districts with nine hundred or
10 more formula students shall be as follows: (i) if such levy was at
11 least one dollar and two cents per one hundred dollars of taxable
12 valuation but less than one dollar and three cents per one hundred
13 dollars of taxable valuation, the percentage shall be XXX percent;
14 (ii) if such levy was at least one dollar and three cents per one
15 hundred dollars of taxable valuation but less than one dollar and
16 four cents per one hundred dollars of taxable valuation, the
17 percentage shall be XXX percent; and (iii) if such levy was at least
18 one dollar and four cents per one hundred dollars of taxable
19 valuation, the percentage shall be XXX percent; and

20 (c) For districts with fewer than nine hundred formula
21 students, basic funding shall equal the product of the average of the
22 adjusted general fund operating expenditures for each district in the
23 comparison group, excluding both the two districts with the highest
24 adjusted general fund operating expenditures and the two districts
25 with the lowest adjusted general fund operating expenditures of the

1 districts in the comparison group.

2 Sec. 5. Section 79-1008.01, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 79-1008.01 For all school fiscal years except school
5 fiscal year 2010-11, except as provided in sections 79-1008.02 and
6 79-1009, each local system shall receive equalization aid in the
7 amount that the total formula need of each local system, as
8 determined pursuant to sections 79-1007.04 to 79-1007.23 and
9 79-1007.25, exceeds its total formula resources as determined
10 pursuant to sections 79-1015.01 to 79-1018.01.

11 For school fiscal year 2010-11, except as provided in
12 sections 79-1008.02 and 79-1009, each local system shall receive
13 equalization aid in the amount by which one hundred two and twenty-
14 three hundredths percent of the total formula need of each local
15 system, as determined pursuant to sections 79-1007.04 to 79-1007.23
16 and 79-1007.25, exceeds its total formula resources as determined
17 pursuant to sections 79-1015.01 to 79-1018.01.

18 For school fiscal years 2013-14 and 2014-15, except as
19 provided in sections 79-1008.02 and 79-1009, each local system shall
20 receive equalization aid in the amount that the total formula need of
21 each local system, as determined pursuant to sections 79-1007.04 to
22 79-1007.23 and 79-1007.25 minus the temporary aid adjustment exceeds
23 its total formula resources as determined pursuant to sections
24 79-1015.01 to 79-1018.01.

25 Sec. 6. Section 79-1009, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 79-1009 (1)(a) A district shall receive net option
3 funding if option students as defined in section 79-233 (i) were
4 actually enrolled in the school year immediately preceding the school
5 year in which the aid is to be paid or (ii) will be enrolled in the
6 school year in which the aid is to be paid as converted contract
7 option students.

8 (b) The determination of the net number of option
9 students shall be based on (i) the number of students enrolled in the
10 district as option students and the number of students residing in
11 the district but enrolled in another district as option students as
12 of the day of the fall membership count pursuant to section 79-528,
13 for the school fiscal year immediately preceding the school fiscal
14 year in which aid is to be paid, and (ii) the number of option
15 students that will be enrolled in the district or enrolled in another
16 district as converted contract option students for the fiscal year in
17 which the aid is to be paid.

18 (c) Net number of option students means the difference of
19 the number of option students enrolled in the district minus the
20 number of students residing in the district but enrolled in another
21 district as option students.

22 (2) For purposes of this section: 7

23 (a) For all school fiscal years except school fiscal
24 years 2013-14 and 2014-15, net option funding shall be the sum of the
25 product of the net number of option students multiplied by the

1 statewide average basic funding per formula student; and -

2 (b) For school fiscal years 2013-14 and 2014-15, net
3 option funding shall be calculated by subtracting the temporary aid
4 adjustment factor from the sum of the product of the net number of
5 option students multiplied by the statewide average basic funding per
6 formula student.

7 (3) A district's net option funding shall be zero if the
8 calculation produces a negative result.

9 (4) Payments made under this section shall be made from
10 the funds to be disbursed under section 79-1005.01.

11 (5) Such payments shall go directly to the option school
12 district but shall count as a formula resource for the local system.

13 Sec. 7. Original sections 79-1003, 79-1005.01,
14 79-1007.11, 79-1007.16, 79-1008.01, and 79-1009, Revised Statutes
15 Cumulative Supplement, 2012, are repealed.

16 Sec. 8. The following section is outright repealed:
17 Section 79-1007.18, Revised Statutes Cumulative Supplement, 2012.

18 Sec. 9. Since an emergency exists, this act takes effect
19 when passed and approved according to law.