

LEGISLATIVE BILL 1014

Approved by the Governor April 14, 2010

Introduced by Haar, 21; Avery, 28; Carlson, 38; Giese, 17; McGill, 26; Mello, 5; Cook, 13.

FOR AN ACT relating to schools; to amend sections 79-1018.01 and 79-1035, Reissue Revised Statutes of Nebraska, and section 79-1028.01, Revised Statutes Supplement, 2009; to provide for teacher performance pay; to change local system formula resources and maximum expenditures for purposes of the Tax Equity and Educational Opportunities Support Act; to change provisions relating to distribution of school funds from school lands; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

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

Section 1. (1)(a) Beginning in 2016, the Commissioner of Education shall annually collect data from each school district prior to February 25 and determine whether at least seventy-five percent of the school districts have included a system for distributing apportionment funds attributable to income from solar or wind energy leases on school lands for teacher performance pay within such districts' local collective-bargaining agreements for the ensuing school fiscal year.

(b)(i) If the seventy-five percent requirement has been met for the year, the Commissioner of Education shall use the separate accounting provided by the State Treasurer under subdivision (1)(b) of section 79-1035 to determine the amount of the apportionment to each school district under section 79-1035 that is attributable to income from solar or wind energy leases on school lands. The commissioner shall notify each school district of such amount within five days after certification of the apportionment required pursuant to subsection (3) of section 79-1035. Each school district shall use the amount of apportionment funds specified in the notice provided by the commissioner for the purpose of teacher performance pay. Such amount shall be used as a supplement to the salary schedule as provided in local collective-bargaining agreements. For purposes of distribution of such funds only, the Legislature finds that teacher performance pay measurements, criteria, and payout amounts are mandatory topics of collective bargaining. If a school district has not included a system for distributing apportionment funds attributable to income from solar or wind energy leases on school lands for teacher performance pay within its local collective-bargaining agreement, the amount of apportionment funds specified in the notice provided by the commissioner shall be returned to the State Treasurer within one month of receipt of such funds. The State Treasurer shall immediately credit any funds returned under this section to the temporary school fund. Any funds returned under this section shall be redistributed from the temporary school fund in the following year and shall no longer be designated as income attributable to solar or wind energy leases on school lands.

(ii) If the seventy-five percent requirement has not been met for the year, then subdivision (1)(b)(i) of this section shall not apply for that year.

(2) If the seventy-five percent requirement has not been met in 2016, 2017, or 2018, then this section shall not apply in 2019 or any year thereafter.

(3) For purposes of this section:

(a) Lease means any lease, easement, covenant, or other such contractual arrangement; and

(b) Teacher performance pay means a systematic process for measuring teachers' performance and linking the measurements to changes in teacher pay. Indicators of teacher performance may include improving professional skills and knowledge, classroom performance or instructional behavior, and instructional outcomes. Teacher performance pay may include predetermined bonus amounts and payout criteria.

Sec. 2. Section 79-1018.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1018.01 Except as otherwise provided in this section, local system formula resources include other actual receipts available for the funding of general fund operating expenditures as determined by the department for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Receipts from the Community Improvements Cash Fund and receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included. Other actual receipts include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Tuition receipts from individuals, other districts, or any other source except receipts derived from adult education, receipts derived from summer school tuition, receipts derived from early childhood education tuition, and receipts from educational entities as defined in section 79-1201.01 for providing distance education courses through the Distance Education Council until July 1, 2008, and the Educational Service Unit Coordinating Council on and after July 1, 2008, to such educational entities;
- (4) Transportation receipts;
- (5) Interest on investments;
- (6) Other miscellaneous noncategorical local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (7) Special education receipts;
- (8) Special education receipts and non-special education receipts from the state for wards of the court and wards of the state;
- (9) All receipts from the temporary school fund. Beginning with the calculation of aid for school fiscal year 2002-03 and each school fiscal year thereafter, receipts from the temporary school fund shall only include (a) receipts pursuant to section 79-1035, to the extent that such receipts for the calculation of aid for school fiscal year 2018-19 and each school fiscal year thereafter are not returned to the temporary school fund pursuant to section 1 of this act, and (b) the receipt of funds pursuant to section 79-1036 for property leased for a public purpose as set forth in subdivision (1)(a) of section 77-202;
- (10) Motor vehicle tax receipts received on or after January 1, 1998;
- (11) Pro rata motor vehicle license fee receipts;
- (12) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;
- (13) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
- (14) All other noncategorical federal receipts;
- (15) All receipts pursuant to the enrollment option program under sections 79-232 to 79-246;
- (16) Receipts under the federal Medicare Catastrophic Coverage Act of 1988, as such act existed on May 8, 2001, as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the local system would have otherwise received pursuant to the Special Education Act; and
- (17) Receipts for accelerated or differentiated curriculum programs pursuant to sections 79-1106 to 79-1108.03.

Sec. 3. Section 79-1028.01, Revised Statutes Supplement, 2009, is amended to read:

79-1028.01 (1) ~~For school fiscal year 2008-09 and each school fiscal year thereafter,~~ a school district may exceed its maximum general fund budget of expenditures minus the special education budget of expenditures by a specific dollar amount for:

- (a) Expenditures for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act;
- (b) Expenditures for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district;
- (c) Expenditures pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856;
- (d) Expenditures of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011;
- (e) Expenditures of amounts received from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;

(f) Either (i) the first and second school fiscal years the district will be participating in Network Nebraska for the full school fiscal year or (ii) school fiscal year 2008-09, if the school district participated in Network Nebraska for all of school fiscal year 2007-08, for the difference of the estimated expenditures for such school fiscal year for telecommunications services, access to data transmission networks that transmit data to and

from the school district, and the transmission of data on such networks as such expenditures are defined by the department for purposes of the distance education and telecommunications allowance minus the dollar amount of such expenditures for the second school fiscal year preceding the first full school fiscal year the district participates in Network Nebraska;

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

(h) Expenditures in school fiscal years 2009-10 through 2013-14 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent; and

(i) Expenditures in school fiscal years 2009-10 through 2013-14 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the Class V School Employees Retirement System to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent;

~~(2) For school fiscal year 2009-10 and each school fiscal year thereafter, a school district may exceed its maximum general fund budget of expenditures minus the special education budget of expenditures by a specific dollar amount for (a) expenditures~~

(j) Expenditures for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009; and (b) expenditures

(k) Expenditures for new elementary attendance sites in the first year of operation or the first year of operation after being closed for at least one school year if such elementary attendance site will most likely qualify for the elementary site allowance in the immediately following school fiscal year as determined by the state board; and

(1) Any expenditures in school fiscal years 2016-17 and 2017-18 of amounts specified in the notice provided by the Commissioner of Education pursuant to section 1 of this act for teacher performance pay.

~~(3) (2)~~ The state board shall approve, deny, or modify the amount allowed for any exception to the maximum general fund budget of expenditures minus the special education budget of expenditures pursuant to this section.

Sec. 4. Section 79-1035, Reissue Revised Statutes of Nebraska, is amended to read:

79-1035 ~~(1)~~ (1)(a) The State Treasurer shall, each year on or before the third Monday in January, make a complete exhibit of all money belonging to the permanent school fund and the temporary school fund as returned to him or her from the several counties, together with the amount derived from other sources, and deliver such exhibit duly certified to the Commissioner of Education.

(b) Beginning in 2016 and each year thereafter, the exhibit required in subdivision (1)(a) of this section shall include a separate accounting, not to exceed an amount of ten million dollars, of the income from solar and wind energy leases on school lands. The Board of Educational Lands and Funds shall provide the State Treasurer with the information necessary to make the exhibit required by this subsection. Separate accounting shall not be made for income from solar or wind energy leases on school lands that exceeds the sum of ten million dollars.

(2) On or before February 25 following receipt of the exhibit from the State Treasurer pursuant to subsection (1) of this section, the Commissioner of Education shall make the apportionment of the temporary school fund to each school district as follows: From the whole amount there shall be paid to those districts in which there are school or saline lands, which lands are used for a public purpose, an amount in lieu of tax money that would be raised if such lands were taxable, to be fixed in the manner prescribed in section 79-1036; and the remainder shall be apportioned to the districts according to the pro rata enumeration of children who are five through eighteen years of age in each district last returned from the school district. The calculation of apportionment for each school fiscal year shall include any corrections to the prior school fiscal year's apportionment.

~~(2)~~ (3) The Commissioner of Education shall certify the amount of the apportionment of the temporary school fund as provided in subsection ~~(1)~~ (2) of this section to the Director of Administrative Services. The Director of Administrative Services shall draw a warrant on the State Treasurer in favor of the various districts for the respective amounts so certified by the Commissioner of Education.

(4) For purposes of this section, lease means any lease, easement,

covenant, or other such contractual arrangement.

Sec. 5. The Revisor of Statutes shall assign section 1 of this act to Chapter 79.

Sec. 6. Original sections 79-1018.01 and 79-1035, Reissue Revised Statutes of Nebraska, and section 79-1028.01, Revised Statutes Supplement, 2009, are repealed.