LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 554

Introduced by Nordquist, 7.
Read first time January 23, 2013
Committee: Nebraska Retirement Systems

A BILL

FOR AN ACT relating to the school employees retirement; to amend sections 79-9,100 and 79-9,103, Reissue Revised Statutes of Nebraska, and sections 79-966, 79-9,113, 79-1003, and 79-1028.01, Revised Statutes Cumulative Supplement, 2012; to change the amount of state deposits and employee deposits; to change retirement allowance calculations; to change provisions related to cost-of-living adjustments; to eliminate obsolete language; to redefine terms and change provisions relating to school aid calculations; to provide an operative date; to provide severability; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 79-966, Revised Statutes Cumulative Supplement, 2012, is amended to read:

79-966 (1) On the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board shall annually, on or before July 1, determine the state deposit to be made by the state in the School Retirement Fund for that fiscal year. The amount of such state deposit shall be determined pursuant to section 79-966.01. The retirement board shall thereupon certify the amount of such state deposit, and on the warrant of the Director of Administrative Services, the State Treasurer shall, as of July 1 of such year, transfer from funds appropriated by the state for that purpose to the School Retirement Fund the amount of such state deposit.

(2) In addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system for each fiscal year on or after July 1, 1984, until July 1, 2009. For each fiscal year beginning July 1, 2009, until July 1, 2013, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to one percent of the compensation of all members of the retirement system. For each fiscal year beginning
July 1, 2017, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system. For each fiscal year beginning July 1, 2013, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to two percent of the compensation of all members of the retirement system.

(3) In addition to the state deposits required by subsections (1) and (2) of this section, beginning on July 1, 2005, and each fiscal year thereafter, the state shall deposit in the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity benefit established pursuant to sections 79-933 and 79-952 as accrued through the end of the previous fiscal year of the school employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act.

Sec. 2. Section 79-9100, Reissue Revised Statutes of Nebraska, is amended to read:

79-9100 (1) In lieu of the retirement annuity provided by section 79-999 or 79-9113, any member who becomes eligible to receive a retirement annuity after February 20, 1982, under the Class V School Employees Retirement Act shall receive a formula retirement annuity based on final average compensation, except that if the
monthly formula retirement annuity based on final average compensation is less than the monthly retirement annuity specified in section 79-999 or 79-9,113, accrued to the date of retirement or August 31, 1983, whichever first occurs, the member shall receive the monthly retirement annuity specified in section 79-999 or 79-9,113 accrued to the date of retirement or August 31, 1983, whichever first occurs.

(2) The monthly formula retirement annuity based on final average compensation shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the retirement annuity provided by section 79-999 or 79-9,113 by one and one-half percent of his or her final average compensation. For retirements after June 15, 1989, and before April 18, 1992, the applicable percentage shall be one and sixty-five hundredths percent of his or her final average compensation. For retirements on or after April 18, 1992, and before June 7, 1995, the applicable percentage shall be one and seventy-hundredths percent of his or her final average compensation. For retirements on or after June 7, 1995, and before March 4, 1998, the applicable percentage shall be one and eighty-hundredths percent of his or her final average compensation. For retirements on or after March 4, 1998, and before March 22, 2000, the applicable percentage shall be one and eighty-five hundredths percent of his or her final average compensation. For retirements on or after March 22, 2000, the applicable percentage shall be two percent of his or her final average compensation.
(3) Final average compensation shall be determined:
(a) For an employee who was a member prior to September 1, 2013, by dividing the member's total compensation for the three fiscal years in which such compensation was the highest by thirty-six; and
(b) For an employee who became a member for the first time on or after September 1, 2013, by dividing the member's total compensation for the five fiscal years in which such compensation was the highest by sixty.

(4) For retirements before June 7, 1995, if the annuity begins prior to the sixty-second birthday of the member and the member has not completed thirty-five or more years of creditable service, the annuity at the date it begins shall be the actuarial equivalent of the annuity deferred to the sixty-second birthday of the member. If the annuity begins prior to the sixty-second birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall not be reduced. For retirements on or after June 7, 1995, any retirement annuity which begins prior to the sixty-second birthday of the member shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-second birthday. If the annuity begins at a time when:
(1)(a) The sum of the member's attained age and creditable service is eighty-five or more, the annuity shall not be reduced;
The sum of the member's attained age and
creditable service totals eighty-four, the annuity shall not be
reduced by an amount greater than three percent of the unreduced
annuity;

The sum of the member's attained age and
creditable service totals eighty-three, the annuity shall not be
reduced by an amount greater than six percent of the unreduced
annuity; and

The sum of the member's attained age and
creditable service totals eighty-two, the annuity shall not be
reduced by an amount greater than nine percent of the unreduced
annuity.

For purposes of this section, a member's creditable
service and attained age shall be measured in one-half-year
increments.

The normal form of the formula retirement annuity
based on final average compensation shall be an annuity payable
monthly during the remainder of the member's life with the provision
that in the event of his or her death before sixty monthly payments
have been made the monthly payments will be continued to his or her
estate or to the beneficiary he or she has designated until a total
of sixty monthly payments have been made. A member may elect to
receive, in lieu of the normal form of annuity, an actuarially
equivalent annuity in any optional form provided by section 79-9,101.

Any member receiving a formula retirement annuity
based on final average compensation shall also receive the service
annuity to be paid by the State of Nebraska as provided in sections
79-933 to 79-935 and 79-951.

Sec. 3. Section 79-9,103, Reissue Revised Statutes of
Nebraska, is amended to read:

79-9,103 (1) Any annuity paid on or after September 1,
1983, to a member who retired prior to February 21, 1982, pursuant to
the Class V School Employees Retirement Act, or to such member's
beneficiary, or to a person who retired under the provisions of the
retirement system established by statute for employees of Class V
school districts in effect prior to September 1, 1951, or to such
person's beneficiary, shall be adjusted by the increase in the cost
of living or wage levels between the effective date of retirement and
June 30, 1983, except that such increase shall not exceed the sum of
one dollar and fifty cents per month for each year of creditable
service and one dollar per month for each completed year of
retirement as measured from the effective date of retirement to June
30, 1983. No separate adjustment in such annuity shall be made as a
result of the changes made in section 79-9,113 pursuant to Laws 1983,
LB 488. If a joint and survivor annuity was elected, the increase
shall be actuarially adjusted so that the joint and survivor annuity
remains the actuarial equivalent of the life annuity otherwise
payable.

(2) In addition to the cost-of-living adjustment provided
in subsection (1) of this section, any annuity paid on or after
September 1, 1986, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1985, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1986, except that such increase shall not exceed (a) three and one-half percent for annuities first paid on or after September 1, 1984, (b) seven percent for annuities first paid on or after September 1, 1983, but before September 1, 1984, or (c) ten and one-half percent for all other annuities.

(3) In addition to the cost-of-living adjustment provided in subsections (1) and (2) of this section, any annuity paid on or after September 1, 1989, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1988, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1989, except that such increase shall not exceed (a) three percent for annuities first paid on or after September 1, 1987, (b) six percent for annuities first paid on or after September 1, 1986, but before September 1, 1987, or (c) nine percent for all other annuities.

(4) In addition to the cost-of-living adjustment provided
in subsections (1), (2), and (3) of this section, any annuity paid on
or after September 1, 1992, pursuant to the act or pursuant to the
provisions of the retirement system established by statute for
employees of Class V school districts in effect prior to September 1,
1951, and on which the first payment was dated on or before October
1, 1991, shall be adjusted by the increase in the cost of living or
wage levels between the effective date of retirement and June 30,
1992, except that such increase shall not exceed (a) three percent
for annuities first paid after October 1, 1990, (b) six percent for
annuities first paid after October 1, 1989, but on or before October
1, 1990, or (c) nine percent for all other annuities.

(5) In addition to the cost-of-living adjustment provided
in subsections (1), (2), (3), and (4) of this section, any annuity
paid on or after September 1, 1995, pursuant to the act or pursuant
to the provisions of the retirement system established by statute for
employees of Class V school districts in effect prior to September 1,
1951, and on which the first payment was dated on or before October
1, 1994, shall be adjusted by the increase in the cost of living or
wage levels between the effective date of retirement and June 30,
1995, except that such increase shall not exceed (a) three percent
for annuities first paid after October 1, 1993, (b) six percent for
annuities first paid after October 1, 1992, but on or before October
1, 1993, or (c) nine percent for all other annuities.

(6) In addition to the cost-of-living adjustment provided
in subsections (1), (2), (3), (4), and (5) of this section, any
annuity paid pursuant to the act or pursuant to the provisions of the
tenure system established by statute for employees of Class V
school districts in effect prior to September 1, 1951, and on which
the first payment was dated on or before October 1, 1994, shall be
subject to adjustment to equal the greater of (a) the annuity payable
to the member or beneficiary as adjusted, if applicable, under the
provisions of subsection (1), (2), (3), (4), or (5) of this section
or (b) ninety percent of the annuity which results when the original
annuity that was paid to the member or beneficiary (before any cost-
of-living adjustments under this section), is adjusted by the
increase in the cost of living or wage levels between the
commencement date of the annuity and June 30, 1995.

(7) In addition to the cost-of-living adjustment provided
in subsections (1), (2), (3), (4), (5), and (6) of this section, any
annuity paid on or after September 1, 1998, pursuant to the act or
pursuant to the provisions of the retirement system established by
statute for employees of Class V school districts in effect prior to
September 1, 1951, and on which the first payment was dated on or
before October 3, 1997, shall be adjusted by the increase in the cost
of living or wage levels between the effective date of retirement and
June 30, 1998, except that such increase shall not exceed (a) three
percent for annuities first paid after October 1, 1996, (b) six
percent for annuities first paid after October 1, 1995, but on or
before October 1, 1996, or (c) nine percent for all other annuities.

(8) Beginning January 1, 2000, and on January 1 of every
year thereafter, for employees of Class V school districts who were
members prior to January 1, 2014, a cost-of-living adjustment shall
be made for any annuity being paid pursuant to the act, or pursuant
to the provisions of the retirement system established by statute for
employees of Class V school districts in effect prior to September 1,
1951, and on which the first payment was dated on or before October 3
preceding such January 1 adjustment date. The cost-of-living
adjustment for any such annuity shall be the lesser of (a) one and
one-half percent or (b) the increase in the consumer price index from
the date such annuity first became payable through the August 31
preceding the January 1 adjustment date as reduced by the aggregate
cost-of-living adjustments previously made to the annuity pursuant to
section 79-9,103 and pursuant to subsections (8) and (9)-(10) of this
section.

(9) Beginning January 1, 2014, and on January 1 of every
year thereafter, for employees of Class V school districts who were
members on or after January 1, 2014, a cost-of-living adjustment
shall be made for any annuity being paid pursuant to the act, or
pursuant to the provisions of the retirement system established by
statute for employees of Class V school districts in effect prior to
September 1, 1951, and on which the first payment was dated on or
before October 3 preceding such January 1 adjustment date. The cost-
of-living adjustment for any such annuity shall be the lesser of (a)
one percent or (b) the increase in the consumer price index from the
date such annuity first became payable through the August 31
preceding the January 1 adjustment date as reduced by the aggregate
cost-of-living adjustments previously made to the annuity pursuant to
section 79-9,103 and pursuant to subsections (8) and (10) of this
section.

(9) (10) Beginning September 1, 1999, the actuary shall
make an annual valuation of the assets and liabilities of the system.
If the annual valuation made by the actuary, as approved by the
trustees, indicates that the system has sufficient actuarial surplus
to provide for a cost-of-living adjustment in addition to the
adjustment made pursuant to subsection (8) of this section, the board
may, in its discretion, declare by resolution that each annuity being
paid pursuant to the act, or pursuant to the provisions of the
retirement system established by statute for employees of Class V
school districts in effect prior to September 1, 1951, and on which
the first payment was dated on or before October 3 of the year such
resolution is adopted, shall be increased beginning as of the January
1 following the date of the board's resolution by such percentage as
may be declared by the board, except that such increase for any such
annuity shall not exceed the increase in the consumer price index
from the date such annuity first became payable through the
applicable valuation date as reduced by the aggregate cost-of-living
adjustments previously made to the annuity pursuant to section
79-9,103 and pursuant to subsections (8) and (9) (10) of this
section.

(10) (11) Except for the adjustments pursuant to
subsection (12)-(13) of this section, the consumer price index to be used for determining any cost-of-living adjustment under this section shall be the Consumer Price Index - All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor. If this consumer price index is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board, upon recommendation of the trustees, which shall be a reasonable representative measurement of the cost of living for retired employees. An annuity as increased by any cost-of-living adjustment made under this section shall be considered the base annuity amount for the purpose of future adjustments pursuant to this section. In no event shall any cost-of-living adjustment be deemed to affect or increase the amount of the base retirement annuity of a member as determined under section 79-999 or 79-9,100.

(11)-(12) Any decision or determination by the board (a) to declare or not declare a cost-of-living adjustment, (b) as to whether the annual valuation indicates a sufficient actuarial surplus to provide for a cost-of-living adjustment, or (c) pursuant to the selection of a substitute index shall be made in the sole, absolute, and final discretion of the board and shall not be subject to challenge by any member or beneficiary. In no event shall the Legislature be constrained or limited in amending the system or increasing the benefits of members under the system, nor shall the board or trustees be constrained from supporting any such change to the system, notwithstanding the effect of any such change upon the
actuarial surplus of the system and the ability of the board to
declare future cost-of-living adjustments.

(12) The Legislature finds and declares that there
exists in this state a pressing need to attract and retain qualified
and dedicated public school employees and that one of the factors
prospective public school employees consider when seeking or
continuing public school employment is the retirement system and
benefits the employment provides. The Legislature further finds that
over the past decades, as reflected by the Medical Price Index
published by the United States Department of Labor, the cost of
medical care, including the cost of medications and insurance
coverages, has increased at a rate in excess of that by which the
Consumer Price Index - All Urban Consumers has increased. The
Legislature further finds and declares that there accordingly exists
a need to adjust the amount of retirement benefits paid to retired
public school employees in order to assist them in meeting the
increased cost of medical care. Therefore, in addition to the cost-of-
living adjustments provided in subsections (1) through (11) of
this section, commencing on October 3, 2001, and on October 3 of
every year thereafter, a medical cost-of-living adjustment shall be
paid to any annuitant who has been paid an annuity from the
retirement system for at least ten years through the October 3
adjustment date. The cost-of-living adjustment shall be paid in the
form of a supplemental annuity providing monthly payments equal to
the amount which results when (a) the fraction, not to exceed one,
that results when the annuitant's years of creditable service at his 
or her retirement date is divided by twenty, is multiplied by (b) the 
product of ten dollars times the number of years, including attained 
one-half years, that such annuitant has received annuity payments 
from the retirement system through the October 3 adjustment date. The 
supplemental annuity being paid to an annuitant shall increase by ten 
dollars on October 3 of each subsequent year to reflect the 
additional year of annuity payments to the annuitant until the total 
amount of the supplemental annuity is two hundred fifty dollars. In 
no event shall the medical cost-of-living adjustment for any 
anuitant pursuant to this subsection result in the payment of a 
supplemental annuity exceeding two hundred fifty dollars per month. 
The supplemental annuity paid to an annuitant pursuant to this 
subsection shall cease at the death of the annuitant regardless of 
the form of retirement annuity being paid to the annuitant at the 
time of his or her death.

Sec. 4. Section 79-9,113, Revised Statutes Cumulative 
Supplement, 2012, is amended to read:

79-9,113 (1)(a) If, at any future time, a majority of the 
eligible members of the retirement system votes to be included under 
an agreement providing old age and survivors insurance under the 
Social Security Act of the United States, the contributions to be 
made by the member and the school district for membership service, 
from and after the effective date of the agreement with respect to 
services performed subsequent to December 31, 1954, shall each be
reduced from five to three percent but not less than three percent of
the member's salary per annum, and the credits for membership service
under this system, as provided in section 79-999, shall thereafter be
reduced from one and one-half percent to nine-tenths of one percent
and not less than nine-tenths of one percent of salary or wage earned
by the member during each fiscal year, and from one and sixty-five
hundredths percent to one percent and not less than one percent of
salary or wage earned by the member during each fiscal year and from
two percent to one and two-tenths percent of salary or wage earned by
the member during each fiscal year, and from two and four-tenths
percent to one and forty-four hundredths percent of salary or wage
earned by the member during each fiscal year, except that after
September 1, 1963, and prior to September 1, 1969, all employees of
the school district shall contribute an amount equal to the
membership contribution which shall be two and three-fourths percent
of salary covered by old age and survivors insurance, and five
percent above that amount. Commencing September 1, 1969, all
employees of the school district shall contribute an amount equal to
the membership contribution which shall be two and three-fourths
percent of the first seven thousand eight hundred dollars of salary
or wages earned each fiscal year and five percent of salary or wages
earned above that amount in the same fiscal year. Commencing
September 1, 1976, all employees of the school district shall
contribute an amount equal to the membership contribution which shall
be two and nine-tenths percent of the first seven thousand eight
hundred dollars of salary or wages earned each fiscal year and five
and twenty-five hundredths percent of salary or wages earned above
that amount in the same fiscal year. Commencing on September 1, 1982,
all employees of the school district shall contribute an amount equal
to the membership contribution which shall be four and nine-tenths
percent of the compensation earned in each fiscal year. Commencing
September 1, 1989, all employees of the school district shall
contribute an amount equal to the membership contribution which shall
be five and eight-tenths percent of the compensation earned in each
fiscal year. Commencing September 1, 1995, all employees of the
school district shall contribute an amount equal to the membership
contribution which shall be six and three-tenths percent of the
compensation earned in each fiscal year. Commencing September 1,
2007, all employees of the school district shall contribute an amount
equal to the membership contribution which shall be seven and three-
tenths percent of the compensation paid in each fiscal year.
Commencing September 1, 2009, all employees of the school district
shall contribute an amount equal to the membership contribution which
shall be eight and three-tenths percent of the compensation paid in
each fiscal year. Commencing September 1, 2011, all employees of the
school district shall contribute an amount equal to the membership
contribution which shall be nine and three-tenths percent of the
compensation paid in each fiscal year.

(b) The contributions by the school district in any
fiscal year beginning on or after September 1, 1999, shall be the
greater of (i) one hundred percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees. **Commencing September 1, 2013, all employees of the school district shall contribute an amount equal to the membership contribution which shall be x percent of the compensation paid in each fiscal year.**

(c) The contributions by the school district in any fiscal year beginning on or after September 1, 2007, shall be the greater of (i) one hundred one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees.

(d) The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under the Class V School Employees Retirement Act.
(e) After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year, and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, not to become members of the system shall
not be less than they would have been had they remained under any preexisting system to date of retirement.

(f) Members of this system having the service qualifications of members of the School Employees Retirement System of the State of Nebraska, as provided by section 79-926, shall receive the state service annuity provided by sections 79-933 to 79-935 and 79-951.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-990, 79-991, and 79-992 which are made under an irrevocable
payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of the Class V School Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 5. Section 79-1003, Revised Statutes Cumulative Supplement, 2012, is amended to read:

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

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

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

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01 as adjusted by the minimum levy adjustment pursuant to section
(4) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the local system, as provided in each district's annual statistical summary, and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

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

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

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

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

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

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

(11) Department means the State Department of Education;

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

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

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

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

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

(17) Formula students means:

(a) For state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5; and

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

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

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

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

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

(22) General fund operating expenditures means:

(a) For state aid calculated for school fiscal years 2010-11 and 2011-12, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, 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, private foundations, individuals, associations, charitable organizations, the
textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (v) expenditures to pay 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 (vi) (A) 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 or (B) 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 retirement system established pursuant to the Class V School Employees Retirement Act 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; and

(b) For state aid calculated for school fiscal years 2012-13 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, 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, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (v)
expenditures to pay 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, or occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year, (vi)(A) expenditures in school fiscal years 2009-10 through 2016-17 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees 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 or (B) expenditures in school fiscal years 2009-10 through 2016-17 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act 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, and (vii) any amounts paid by the district for lobbyist fees and expenses reported to the Clerk of the Legislature pursuant to section 49-1483.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(37) Sparse local system means a local system that is not 
a very sparse local system but which meets the following criteria: 
(a)(i) Less than two students per square mile in the 
county in which each high school is located, based on the school 
district census, (ii) less than one formula student per square mile 
in the local system, and (iii) more than ten miles between each high 
school attendance center and the next closest high school attendance
center on paved roads;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. Section 79-1028.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

79-1028.01 (1) For each school fiscal year, a school district may exceed its budget authority for the general fund budget
of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount for the following exclusions:

(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 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;

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

(f) Expenditures in school fiscal years 2009-10 through 2016-17 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Employees 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;

(g) Expenditures in school fiscal years 2009-10 through 2016-17 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the retirement system established pursuant to the Class V School Employees Retirement Act 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;

(h) 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, or occurring on or after the last day of the 2010-11 school year and prior to the first day of the 2013-14 school year;

(i) 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 79-309.01 for teacher performance pay;

(j) The special education budget of expenditures; and

(k) Expenditures of special grant funds.

(2) For each school fiscal year, a school district may exceed its budget authority for the general fund budget of expenditures as calculated pursuant to section 79-1023 for such school fiscal year by a specific dollar amount and include such dollar amount in the budget of expenditures used to calculate budget
authority for the general fund budget of expenditures pursuant to
section 79-1023 for future years for the following exclusions:

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

(b) The first school fiscal year the district will be
participating in Network Nebraska for the full school fiscal year,
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; and

(c) 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.

(3) The state board shall approve, deny, or modify the
amount allowed for any exclusions to the budget authority for the
general fund budget of expenditures pursuant to this section.
Sec. 7. This act becomes operative on July 1, 2013.

Sec. 8. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 9. Original sections 79-9,100 and 79-9,103, Reissue Revised Statutes of Nebraska, and sections 79-966, 79-9,113, 79-1003, and 79-1028.01, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 10. Since an emergency exists, this act takes effect when passed and approved according to law.