

## LEGISLATIVE BILL 675

Approved by the Governor May 27, 2019

Introduced by Groene, 42.

A BILL FOR AN ACT relating to education; to amend sections 77-3446, 79-515, 79-807, 79-1110, 79-1113, 79-1115, 79-1115.01, 79-1117, 79-1119, 79-1119.01, 79-1124, 79-1125.01, 79-1126, 79-1127, 79-1128, 79-1129, 79-1130, 79-1132, 79-1135, 79-1136, 79-1138, 79-1139, 79-1142, 79-1145, 79-1147, 79-1148, 79-1149, 79-1154, 79-1155, 79-1156, 79-1157, 79-1158, 79-1159, 79-1159.01, 79-1160, 79-1161, 79-1162, 79-1163, 79-1164, 79-1167, 79-1302, 79-1304, 79-2202, 83-121, and 83-1225, Reissue Revised Statutes of Nebraska, sections 79-318, 79-1003, 79-1005.01, 79-1007.07, 79-1007.09, 79-1008.01, 79-1017.01, and 79-1144, Revised Statutes Cumulative Supplement, 2018, and section 79-1022, Revised Statutes Cumulative Supplement, 2018, as amended by section 1, Legislative Bill 430, One Hundred Sixth Legislature, First Session, 2019; to change the base limitation for school districts; to change the authorized length for specified contracts; to change basic skills competency requirements as prescribed; to define and redefine terms; to change provisions of the Tax Equity and Educational Opportunities Support Act; to clarify state aid calculations; to change provisions relating to the certification and distribution of state aid; to change provisions of the Special Education Act as prescribed; to eliminate obsolete provisions relating to special education; to adopt updated federal laws and regulations; to change grant provisions as prescribed; to change duties as prescribed; to change distance education and technology terminology; to eliminate a reporting requirement, expired state aid provisions, residential care placement requirements, special education waiver provisions, an outdated duty regarding the Education Innovation Fund, and funding provisions for the Interstate Compact on Educational Opportunity for Military Children; to harmonize provisions; to repeal the original sections; to outright repeal sections 79-527, 79-1007.04, 79-1007.17, 79-1007.23, 79-1007.25, 79-1028.03, 79-1152, 79-1153, 79-1188, and 79-2206, Reissue Revised Statutes of Nebraska, and section 79-1008.02, Revised Statutes Cumulative Supplement, 2018; and to declare an emergency.

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

Section 1. Section 77-3446, Reissue Revised Statutes of Nebraska, is amended to read:

77-3446 Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2017-18 and 2018-19 is one and one-half percent and for school fiscal year 2019-20 is two percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Sec. 2. Section 79-318, Revised Statutes Cumulative Supplement, 2018, is amended to read:

79-318 The State Board of Education shall:

- (1) Appoint and fix the compensation of the Commissioner of Education;
- (2) Remove the commissioner from office at any time for conviction of any crime involving moral turpitude or felonious act, for inefficiency, or for willful and continuous disregard of his or her duties as commissioner or of the directives of the board;
- (3) Upon recommendation of the commissioner, appoint and fix the compensation of all new professional positions in the department, including any deputy commissioners;
- (4) Organize the State Department of Education into such divisions, branches, or sections as may be necessary or desirable to perform all its proper functions and to render maximum service to the board and to the state school system;
- (5) Provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system, including educational service units. In order that the commissioner and his or her staff may carry out their duties, the board shall, through the commissioner: (a) Provide supervisory and consultation services to the schools of the state; (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs; (c) establish rules and regulations which govern standards and procedures for the approval and legal operation of all schools in the state and for the accreditation of all schools requesting state accreditation. All public, private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section 79-703 or, for those schools which elect not to meet accreditation or approval

requirements, the requirements prescribed in subsections (2) through (6) of section 79-1601. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (6) of section 79-1601, not to meet state accreditation or approval requirements shall be as described in such section; (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems if it determines such testing would be advisable; (e) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (f) cause to be published laws, rules, and regulations governing the schools and the school lands and funds with explanatory notes for the guidance of those charged with the administration of the schools of the state; (g) approve teacher education programs conducted in Nebraska postsecondary educational institutions designed for the purpose of certificating teachers and administrators; (h) approve certificated-employee evaluation policies and procedures developed by school districts and educational service units; and (i) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature;

(6) Adopt and promulgate rules and regulations for the guidance, supervision, accreditation, and coordination of educational service units. Such rules and regulations for accreditation shall include, but not be limited to, (a) a requirement that programs and services offered to school districts by each educational service unit shall be evaluated on a regular basis, but not less than every seven years, to assure that educational service units remain responsive to school district needs and (b) guidelines for the use and management of funds generated from the property tax levy and from other sources of revenue as may be available to the educational service units, to assure that public funds are used to accomplish the purposes and goals assigned to the educational service units by section 79-1204. The State Board of Education shall establish procedures to encourage the coordination of activities among educational service units and to encourage effective and efficient educational service delivery on a statewide basis;

(7) Prepare and distribute reports designed to acquaint school district officers, teachers, and patrons of the schools with the conditions and needs of the schools;

(8) Provide for consultation with professional educators and lay leaders for the purpose of securing advice deemed necessary in the formulation of policies and in the effectual discharge of its duties;

(9) Make studies, investigations, and reports and assemble information as necessary for the formulation of policies, for making plans, for evaluating the state school program, and for making essential and adequate reports;

(10) Submit to the Governor and the Legislature a budget necessary to finance the state school program under its jurisdiction, including the internal operation and maintenance of the State Department of Education;

(11) Interpret its own policies, standards, rules, and regulations and, upon reasonable request, hear complaints and disputes arising therefrom;

(12) With the advice of the Department of Motor Vehicles, adopt and promulgate rules and regulations containing reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for the transportation of public, private, denominational, or parochial school students; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ten or less passengers used for the transportation of public, private, denominational, or parochial school students, when such vehicles are owned, operated, or owned and operated by any public, private, denominational, or parochial school or privately owned or operated under contract with any such school in this state, except for vehicles owned by individuals operating a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements. Similar rules and regulations shall be adopted and promulgated for operators of such vehicles as provided in section 79-607;

(13) Accept, on behalf of the Nebraska Center for the Education of Children who are Blind or Visually Impaired, devise of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of the center or the students receiving services from the center, or both, and irrigate or otherwise improve any such real estate when in the board's judgment it would be advisable to do so; and

~~(14) Accept, in order to administer the Interstate Compact on Educational Opportunity for Military Children, any devise, donation, or bequest received by the State Department of Education pursuant to section 79-2206; and~~

(14) ~~(15)~~ Upon acceptance of any devise, donation, or bequest as provided in this section, administer and carry out such devise, donation, or bequest in accordance with the terms and conditions thereof. If not prohibited by the terms and conditions of any such devise, donation, or bequest, the board may

sell, convey, exchange, or lease property so devised, donated, or bequeathed upon such terms and conditions as it deems best and remit all money derived from any such sale or lease to the State Treasurer for credit to the State Department of Education Trust Fund.

None of the duties prescribed in this section shall prevent the board from exercising such other duties as in its judgment may be necessary for the proper and legal exercise of its obligations.

Sec. 3. Section 79-515, Reissue Revised Statutes of Nebraska, is amended to read:

79-515 The school board or board of education of any school district may enter into contracts under such terms and conditions as the board deems appropriate, for periods not to exceed ~~seven~~ four years, for the provision of utility services, refuse disposal, transportation services, maintenance services, financial services, insurance, security services, and instructional materials, supplies, and equipment and, for periods not to exceed four years, for collective-bargaining agreements with employee groups. This section does not permit multiyear contracts with individual school district employees.

Sec. 4. Section 79-807, Reissue Revised Statutes of Nebraska, is amended to read:

79-807 For purposes of sections 79-806 to 79-815, unless the context otherwise requires:

(1) Basic skills competency means either (a) proficiency in (i) the written use of the English language, (ii) reading, comprehending, and interpreting professional writing and other written materials, and (iii) working with fundamental mathematical computations as demonstrated by successful completion of an examination designated by the board ~~taken by teacher education students at a standard institution of higher education~~ or (b) successful employment experiences;

(2) Board means the State Board of Education;

(3) Certificate means an authorization issued by the commissioner to an individual who meets the qualifications to engage in teaching, providing special services, or administering in prekindergarten through grade twelve in the elementary and secondary schools in this state;

(4) Commissioner means the Commissioner of Education;

(5) Department means the State Department of Education;

(6) Human relations training means work or employment experiences that lead to (a) an awareness and understanding of the values, lifestyles, contributions, and history of a pluralistic society, (b) the ability to recognize and deal with dehumanizing biases, including, but not limited to, sexism, racism, prejudice, and discrimination, and an awareness of the impact such biases have on interpersonal relations, (c) the ability to translate knowledge of human relations into attitudes, skills, and techniques which result in favorable experiences for students, (d) the ability to recognize the ways in which dehumanizing biases may be reflected in instructional materials, (e) respect for human dignity and individual rights, and (f) the ability to relate effectively to other individuals and to groups in a pluralistic society other than the applicant's own;

(7) Special education training means course work or employment experiences that provide an individual with the knowledge of (a) the exceptional needs of the disabilities defined under the Special Education Act, (b) the major characteristics of each disability in order to recognize its existence in children, (c) the various alternatives for providing the least restrictive environment for children with disabilities, (d) methods of teaching children with disabilities in the regular classroom, and (e) prereferral alternatives, referral systems, multidisciplinary team responsibilities, the individualized education plan process, and the placement process;

(8) Special services means supportive services provided to students that do not primarily involve teaching, including, but not limited to, (a) audiology, psychology, and physical or occupational therapy, (b) the coaching of extracurricular activities, and (c) subject areas for which endorsement programs are not offered by a standard institution of higher education; and

(9) Standard institution of higher education means any college or university, the teacher education programs of which are fully approved by the board or approved in another state pursuant to standards which are comparable and equivalent to those set by the board.

Sec. 5. Section 79-1003, Revised Statutes Cumulative Supplement, 2018, 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 2013-14 through 2015-16, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) 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, (b) for school fiscal years 2016-17 through 2018-19, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) 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, and focus school and program allowance, and (c) for school fiscal year 2019-20 and each school fiscal year thereafter, the difference of the general fund operating expenditures as calculated pursuant to subdivision (23) 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, community achievement plan 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, for school fiscal years prior to school fiscal year 2017-18, by the minimum levy adjustment pursuant to section 79-1008.02;~~

(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;

(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 school district or 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 ~~section sections 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and 79-1022.02;~~

(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 calculated students means, using 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, (a) for schools that did not provide free meals to all students pursuant to the community eligibility provision, students who individually qualified for free lunches or free milk pursuant to the federal Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., and the federal Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., as such acts and sections existed on January 1, 2015, and rules and regulations adopted thereunder, plus (b) for schools that provided free meals to all students pursuant to the community eligibility provision, (i) for school fiscal year 2016-17, the product of the students who attended such school multiplied by the identified student percentage calculated pursuant to such federal provision or (ii) for school fiscal year 2017-18 and each school fiscal year thereafter, the greater of the number of students in such school who individually qualified for free lunch or free milk using the most recent school fiscal year for which the school did not provide free meals to all students pursuant to the community eligibility provision or one hundred ten percent of the product of the students who qualified for free meals at such school pursuant to the community eligibility provision multiplied by the identified student percentage calculated pursuant to such federal provision, except that the free lunch and free milk students calculated for any school pursuant to subdivision (18)(b)(ii) of this section shall not exceed one hundred percent of the students qualified for free meals at such school pursuant to the community eligibility provision;

(19) Free lunch and free milk student means, for school fiscal years prior to school fiscal year 2016-17, 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;

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

(21) 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, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

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

(23) General fund operating expenditures means 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 (a) 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, (b) 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, (c) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (d) 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, (e)(i) for state aid calculated for school fiscal years prior to school fiscal year 2018-19, 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, 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, or, to the extent that a district has demonstrated to the State Board of Education pursuant to section 79-1028.01 that the agreement will result in a net savings in salary and benefit costs to the school district over a five-year period, occurring on or after the first day of the 2013-14 school year or (ii) for state aid calculated for school fiscal year 2018-19 and each school fiscal year thereafter, expenditures to pay for incentives agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment for which the State Board of Education approved an exclusion pursuant to subdivision (1)(h), (i), (j), or (k) of section 79-1028.01, (f)(i) expenditures 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 (ii) expenditures to pay for school district contributions pursuant to subdivision (1)(c)(i) or (1)(d)(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 (g) 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 (23) 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;

(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 unified system or a school district;

(28) Low-income child means (a) for school fiscal years prior to 2016-17, 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 and (b) for school fiscal year 2016-17 and each school fiscal year thereafter, 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 pursuant to sections 9(b)(1) and 17(c)(4) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4), respectively, and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966, 42 U.S.C. 1772(a)(6) and 42 U.S.C. 1773(e)(1)(A), respectively, as such acts and sections existed on January 1, 2015, for a household of that size that would have allowed the child to meet the income qualifications for free meals 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 (a) for school fiscal years prior to 2016-17, 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 and (b) for school fiscal year 2016-17 and each school fiscal year thereafter, the unadjusted poverty students plus the difference of such unadjusted poverty students 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 October 1 of each school year 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;

(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;

(49) Unadjusted poverty students means, for school fiscal year 2016-17 and each school fiscal year thereafter, the greater of the number of low-income students or the free lunch and free milk calculated students in a district; and

(50) 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 79-1005.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

79-1005.01 (1) Not later than November 15 of each year, the Tax

Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system.

(2) For school fiscal years prior to 2017-18, one hundred two million two hundred eighty-nine thousand eight hundred seventeen dollars which is equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 shall be disbursed as option payments as determined under section 79-1009 and as allocated income tax funds as determined in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, ~~except as provided in section 79-1008.02 for school fiscal years prior to school fiscal year 2017-18.~~ For school fiscal years prior to school fiscal year 2017-18, funds not distributed as allocated income tax funds due to minimum levy adjustments shall not increase the amount available to local systems for distribution as allocated income tax funds.

(3) Using the data certified by the Tax Commissioner pursuant to subsection (1) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall be the amount stated in subsection (2) of this section minus the total amount paid for option students pursuant to section 79-1009, with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subsection (1) of this section. Each local system's allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subsection (1) of this section.

(4) For school fiscal year 2017-18 and each school fiscal year thereafter, each local system's allocated income tax funds shall be calculated by multiplying the local system's income tax liability certified pursuant to subsection (1) of this section by two and twenty-three hundredths percent.

Sec. 7. Section 79-1007.07, Revised Statutes Cumulative Supplement, 2018, is amended to read:

79-1007.07 (1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the poverty allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on poverty as defined by the federal program providing the funds; and

(iii) The expenditures and sources of funding for each program related to poverty, ~~the method used to allocate money to the program and within the program,~~ and the expenditures and sources of funding for support costs directly attributable to poverty.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the poverty allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would include in the poverty allowance expenditures only those expenditures that are not included in other allowances, that were used to specifically address issues related to the education of students living in poverty, that do not replace expenditures that would have occurred if the students involved in the program did not live in poverty, and that are paid for with noncategorical funds generated by state or local taxes.

(3) If the poverty allowance expenditures do not equal 117.65 percent or more of the poverty allowance for the most recently available complete data year, the department shall calculate a poverty allowance correction. The poverty allowance correction shall equal the poverty allowance minus eighty-five percent of the poverty allowance expenditures.

(4) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a poverty allowance for the school fiscal year for which aid is being calculated.

Sec. 8. Section 79-1007.09, Revised Statutes Cumulative Supplement, 2018, is amended to read:

79-1007.09 (1)(a) The annual financial report required pursuant to section 79-528 shall include:

(i) The amount of the limited English proficiency allowance used in the certification of state aid pursuant to section 79-1022 for such school fiscal year;

(ii) The amount of federal funds received based on students who are limited English proficient as defined by the federal program providing the funds; and

(iii) The expenditures and sources of funding for each program related to limited English proficiency, ~~the method used to allocate money to the program and within the program,~~ and the expenditures and sources of funding for support costs directly attributable to limited English proficiency.

(b) The department shall set up accounting codes for the receipts and expenditures required to be reported on the annual financial report pursuant to this subsection.

(2) The department shall determine the limited English proficiency allowance expenditures using the reported expenditures on the annual financial report for the most recently available complete data year that would only include in the limited English proficiency allowance expenditures those



expenditures that are not included in other allowances, that were used to specifically address issues related to the education of students with limited English proficiency, that do not replace expenditures that would have occurred if the students involved in the program did not have limited English proficiency, and that are paid for with noncategorical funds generated by state or local taxes.

(3) If the limited English proficiency allowance expenditures do not equal 117.65 percent or more of the limited English proficiency allowance for the most recently available complete data year, the department shall calculate a limited English proficiency allowance correction. The limited English proficiency allowance correction shall equal the limited English proficiency allowance minus eighty-five percent of the limited English proficiency allowance expenditures. If the limited English proficiency allowance expenditures do not equal fifty percent or more of the allowance for such school fiscal year, the school district shall also be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

(4) The department may request additional information from any school district to assist with calculations and determinations pursuant to this section. If the school district does not provide information upon the request of the department pursuant to this section, the school district shall be disqualified from receiving a limited English proficiency allowance for the school fiscal year for which aid is being calculated.

Sec. 9. Section 79-1008.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

~~79-1008.01 Each Except as provided in section 79-1008.02 for school fiscal years prior to school fiscal year 2017-18 and section 79-1009, each local system shall receive equalization aid in the amount that the total formula need of each local system, as determined pursuant to section 79-1007.11 sections ~~79-1007.04 to 79-1007.23 and 79-1007.25~~, exceeds its total formula resources, as determined pursuant to section 79-1017.01. The equalization aid for a local system shall be zero if the total formula resources equals or exceeds the total formula need for such local system sections ~~79-1015.01 to 79-1018.01~~.~~

Sec. 10. Section 79-1017.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

~~79-1017.01 (1) For state aid calculated for school fiscal years 2014-15 and 2015-16, local system formula resources includes other actual receipts determined pursuant to section 79-1018.01, net option funding determined pursuant to section 79-1009, teacher education aid determined pursuant to section 79-1007.25, instructional time aid determined pursuant to subsection (2) of section 79-1007.23, allocated income tax funds determined pursuant to section 79-1005.01, and minimum levy adjustments determined pursuant to section 79-1008.02 and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.~~

~~(2) For state aid calculated for each school fiscal year 2016-17 and each school fiscal year thereafter, local system formula resources includes other actual receipts determined pursuant to section 79-1009, allocated income tax funds determined pursuant to section 79-1005.01, and community achievement plan aid determined pursuant to section 79-1005, and minimum levy adjustments determined pursuant to section 79-1008.02 for school fiscal years prior to school fiscal year 2017-18, and is reduced by amounts paid by the district in the most recently available complete data year as property tax refunds pursuant to or in the manner prescribed by section 77-1736.06.~~

Sec. 11. Section 79-1022, Revised Statutes Cumulative Supplement, 2018, as amended by section 1, Legislative Bill 430, One Hundred Sixth Legislature, First Session, 2019, is amended to read:

79-1022 (1) On or before June 10, 2019, and on or before March 1 of each year thereafter, ~~for each ensuing fiscal year~~, the department shall determine the amounts to be distributed to each local system ~~and each district~~ for the ensuing school fiscal year pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each local system district. ~~Except as otherwise provided in this section, the amount to be distributed to each district from the amount certified for a local system shall be proportional based on the formula students attributed to each district in the local system.~~ On or before June 10, 2019, and on or before March 1 of each year thereafter, ~~for each ensuing fiscal year~~, the department shall report the necessary funding level for the ensuing school fiscal year to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. The report submitted to the committees of the Legislature shall be submitted electronically. Except as otherwise provided in this subsection, certified state aid amounts, including adjustments pursuant to section 79-1065.02, shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the local system's district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in this subsection, subsection (8) of section 79-1016, and sections 79-1005, 79-1033, and 79-1065.02, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month

beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a local system school district is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year.

Sec. 12. Section 79-1110, Reissue Revised Statutes of Nebraska, is amended to read:

79-1110 Sections 79-1110 to 79-1167 and section 17 of this act shall be known and may be cited as the Special Education Act.

Sec. 13. Section 79-1113, Reissue Revised Statutes of Nebraska, is amended to read:

79-1113 For purposes of the Special Education Act, unless the context otherwise requires, the definitions found in sections 79-1114 to 79-1125.01 and section 17 of this act shall be used.

Sec. 14. Section 79-1115, Reissue Revised Statutes of Nebraska, is amended to read:

79-1115 Allowable costs means: ~~(1) For school fiscal years prior to school fiscal year 1999-00, salaries, wages, benefits, and maintenance, supplies, travel, and other expenses essential to carry out the provisions for special education and support services; and (2) For school fiscal year 1999-00 and each school fiscal year thereafter, salaries, wages, benefits, any medical expenditure by a school district for purposes of providing individualized education plan services for a special education student and health protection to the provider of the services, and maintenance, supplies, travel, and other expenses essential to carry out the provisions for special education and support services.~~

Sec. 15. Section 79-1115.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1115.01 Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf or modified or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability ~~children with disabilities~~.

Sec. 16. Section 79-1117, Reissue Revised Statutes of Nebraska, is amended to read:

79-1117 Child with a disability means any person ~~a child~~ having a disability listed in section 79-1118.01 that has been and verified pursuant to sections 79-1137 to 79-1139 from the date of such verification until he or she is twenty-one years of age or, if his or her twenty-first birthday occurs during a school year, until the end of such school year.

Sec. 17. Department means the State Department of Education.

Sec. 18. Section 79-1119, Reissue Revised Statutes of Nebraska, is amended to read:

79-1119 Excess ~~For aid distributed in school fiscal years prior to 2015-16, excess cost~~ means the difference between the total cost of the special education program excluding residential care and the number of students in the special education program multiplied by the adjusted average per pupil cost of the preceding year for the school district of residence of each child. ~~For aid distributed in school fiscal year 2015-16 and each school fiscal year thereafter, excess cost~~ means the difference between the total cost of the special education program excluding residential care minus federal medicaid funds received pursuant to section 43-2511 for services to school-age children excluding amounts designated as reimbursement for costs associated with the implementation and administration of the billing system pursuant to section 43-2511 and minus the product of the number of students in the special education program multiplied by the adjusted average per pupil cost of the preceding year for the school district of residence of each child.

Sec. 19. Section 79-1119.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1119.01 Interim-program school means a school approved by the State Board of Education and located in or operated by (1) a county detention home established under section 43-2,110, (2) a juvenile emergency shelter, or (3) any institution which is a public or private facility, not owned or operated by a school district, which provides a residential program and regular educational or special education services ~~with a special education rate approved by the State Department of Education.~~

Sec. 20. Section 79-1124, Reissue Revised Statutes of Nebraska, is amended to read:

79-1124 Service agency means the school district, educational service unit, local or regional office of intellectual disability, interim-program school, or some combination thereof or such other agency as may provide a special education program approved by the State Department of Education, including an institution not wholly owned or controlled by the state or any political subdivision to the extent that it provides educational or other services for the benefit of a child with a disability ~~children from the age of five to the age of twenty-one years with disabilities~~ if such services are nonsectarian in nature.

Sec. 21. Section 79-1125.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1125.01 Support services means preventive services for a student that is those children from birth to age twenty-one years and, if the child's twenty-first birthday occurs during the school year, until the end of that school year, not identified or verified as children with disabilities pursuant to sections 79-1118.01, 79-1138, and 79-1139 but demonstrates ~~demonstrating~~ a

need for specially designed assistance in order to benefit from the school district's general education curriculum and to avoid the need for potentially expensive special education placement and services. Support services include the educational services provided to a child pursuant to subdivision (10)(c) of section 79-215 by an interim-program school or an approved or accredited school maintained by a residential setting if such child has not been identified or verified as a child with a disability pursuant to sections 79-1118.01 and 79-1138 but demonstrates a need for specially designed assistance by residing in a residential setting described in subdivision (10)(a) of section 79-215.

Sec. 22. Section 79-1126, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1126 The Special Education Act applies to a child with a disability until the child no longer meets the definition of a child with a disability from the date of diagnosis or the date of notification of the school district of residence to age twenty-one and, if the child's twenty-first birthday occurs during a school year, until the end of that school year. All provisions of state law related to special education which apply to a child with a disability who is age twenty shall apply to a child with a disability whose twenty-first birthday occurs during a school year until the end of that school year. The Division of Vocational Rehabilitation of the department State Department of Education shall, in compliance with federal guidelines, assume responsibility for the training of those individuals whose education or training under the Special Education Act is terminated and for whom additional supportive services are required.~~

Sec. 23. Section 79-1127, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1127 The school board of education of every school district shall provide or contract for special education programs and transportation for all resident children with disabilities who would benefit from such programs in accordance with the Special Education Act and all applicable requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 1401 et seq., as such sections existed on January 1, 2019 2009, and the regulations adopted thereunder.~~

Sec. 24. Section 79-1128, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1128 The special education programs required by section 79-1127 may be provided by any school district, by contracting with another school district or service agency, or by some combination of school districts, an educational service unit, combination of educational service units, the local or regional office of intellectual disability, any program approved by the State of Nebraska, or any combination thereof, except that only nonsectarian services shall be considered for approval by the State of Nebraska. Any program receiving funds under the Special Education Act shall not use such funds to match state funds under the provisions of other programs. The members of the school board of any school district not offering continuous special education programs acceptable to the State Board of Education shall be in violation of the law. No state funds shall be paid to any school district as long as such violation exists, but no deduction shall be made from any funds required by the Constitution of Nebraska to be paid to such district.~~

Sec. 25. Section 79-1129, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1129 (1) The school board of the resident school district or board of education shall provide one of the following types of services to children with disabilities for whom the school district is the school district of residence:~~

~~(a) Provide for the transportation expenses for children with disabilities who are forced to leave the school district temporarily because of lack of educational services. A parent or guardian transporting such a child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one child with a disability in his or her custody or control enrolled in programs at the same location, the amount of payments to such parent or guardian shall be based upon the transportation of one such child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;~~

~~(b) Provide for the transportation expenses within the school district of any child with a disability who is enrolled in a special educational program of the district when either (i) the child is required to attend a facility other than what would be the normal school or attendance facility of the child to receive appropriate special educational services or (ii) the nature of the child's disability is such that special transportation is required. A parent or guardian transporting such child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one child with a disability in his or her custody or control enrolled in programs at the same location, the amount of payments to such parent or guardian shall be based upon the transportation of one such child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;~~

~~(c) Provide visiting teachers for homebound children with disabilities. Such teachers shall be certified and qualified in the same manner as required for other teachers in Nebraska;~~

(d) Provide correspondence instruction approved by the Commissioner of Education; or

(e) Provide any other method of instruction approved by the Commissioner of Education.

(2) When a child with a disability resides in or attends a preschool or child care program in a school district other than the school district of residence of his or her parents or guardian, the nonresident school district may, upon mutual agreement with the school district of residence, provide for the transportation expenses of the child.

Sec. 26. Section 79-1130, Reissue Revised Statutes of Nebraska, is amended to read:

79-1130 (1) It is the intent of the Legislature that transportation services for children with disabilities prescribed in section 79-1129 shall be provided in the most cost-efficient manner consistent with the goal of providing free appropriate special education to all such children. The Legislature finds that educational service units and special education cooperatives created by school districts and recognized by the department ~~State Department of Education~~ are in a unique position to improve the coordination and efficiency of transportation services in all areas of the state. It is the intent of the Legislature to authorize and encourage school districts, educational service units, and special education cooperatives to jointly plan, coordinate, and, where feasible, provide transportation services for children with disabilities. The department ~~State Department of Education~~ shall review and approve, approve with modifications, or disapprove all transportation applications to ensure the implementation of the most cost-efficient transportation system, consistent with the goal of providing free appropriate special education to all children.

(2) School districts, educational service units, and special education cooperatives created by school districts and recognized by the department ~~State Department of Education~~ are authorized to jointly plan, coordinate, and, where feasible, provide special education transportation services prescribed in section 79-1129. Any educational service unit or special education cooperative may enter into a cooperative arrangement with a school board ~~or board of education of a school district~~ for the provision of such transportation services. Such arrangement shall be approved by the department ~~State Department of Education~~, and upon approval of the arrangement the educational service unit or special education cooperative providing the transportation services shall be eligible to receive direct reimbursement for such services pursuant to section 79-1144.

Sec. 27. Section 79-1132, Reissue Revised Statutes of Nebraska, is amended to read:

79-1132 The department ~~State Department of Education~~ shall provide grants for the costs of the special education programs approved by the department ~~State Department of Education~~ to the school district of residence for children with disabilities who are less than five years of age. ~~Educational service units or cooperatives of school districts recognized as regional planning entities by the State Board of Education pursuant to section 79-1135 shall be eligible to receive grants for cooperative programs for such children with disabilities who are less than five years of age if such educational service units or cooperatives have complied with the reporting and approval requirements of such section. The grants shall be one hundred percent of the costs of such programs and shall continue to be one hundred percent as long as the funding for such grants comes from federal funds. For special education programs and transportation provided to children with disabilities who are less than five years of age in fiscal year 1995-96 and each fiscal year thereafter, if federal funding pursuant to the federal Individuals with Disabilities Education Act, as such act existed on May 8, 2001, Part B and section 619 base year allocation flow-through funds is inadequate at any time to pay one hundred percent of the allowable costs of such programs and transportation, the amount of the grant payments provided by the department shall be a pro rata amount as determined by the State Board of Education from appropriations for special education approved by the Legislature and based on such allowable costs for all special education programs and transportation to children with disabilities who are less than five years of age. The grant payments based upon claims submitted shall be made by the State Department of Education to the school district of residence, educational service unit, or regional planning entity recognized by the State Board of Education pursuant to section 79-1135 each year.~~

Sec. 28. Section 79-1135, Reissue Revised Statutes of Nebraska, is amended to read:

79-1135 Each school district shall demonstrate participation in a plan of services for children with disabilities who are less than five years of age. Such plans shall be prepared on a regional basis as determined by the department ~~State Department of Education~~ and updated annually.

The content of plans shall be prescribed by the department.

Supplementary amendments to any program plans may be submitted on dates specified by the department during the same school year and shall be subject to the same review as the initial plans.

Sec. 29. Section 79-1136, Reissue Revised Statutes of Nebraska, is amended to read:

79-1136 Sections ~~79-1126 and~~ 79-1131 to 79-1136 do not prevent funding from sources other than the public schools for the program for children with disabilities who are less than five years of age.

Sec. 30. Section 79-1138, Reissue Revised Statutes of Nebraska, is amended

to read:

79-1138 (1) The State Board of Education shall adopt and promulgate rules and regulations establishing criteria for the assessment, identification, and verification of all disabilities defined in section 79-1118.01 to the extent that such disabilities are consistent with federal law and regulation.

(2) The ~~Commissioner State Board~~ of Education shall develop guidelines to assist school districts, educational service units, and approved cooperatives with the assessment, identification, and verification of the need for related services defined in section 79-1121.

Sec. 31. Section 79-1139, Reissue Revised Statutes of Nebraska, is amended to read:

79-1139 Each school district shall include only students identified and verified pursuant to sections 79-1137 and 79-1138 in special education programs and shall not provide special education services pursuant to the Special Education Act to any child who has not been so identified and verified, ~~except that the verification requirements established by rules and regulations adopted and promulgated by the State Board of Education shall not apply to students who have been included in special education programs pursuant to the special education statutes and rules and regulations adopted and promulgated pursuant thereto in effect immediately prior to July 17, 1986, until such time as such children are required to be reverified for special education.~~

Sec. 32. Section 79-1142, Reissue Revised Statutes of Nebraska, is amended to read:

79-1142 (1) Level I services refers to services provided to children with disabilities who require an aggregate of not more than three hours per week of special education services and support services and includes all administrative, diagnostic, consultative, and vocational-adjustment counselor services.

(2) The total allowable reimbursable cost for support services shall not exceed a percentage, established by the State Board of Education, of the school district's or approved cooperative's total allowable reimbursable cost for all special education programs and support services. The percentage established by the ~~board State Board of Education~~ for support services shall not exceed the difference of ten percent minus the percentage of the appropriations for special education approved by the Legislature set aside for reimbursements for support services pursuant to subsection (5) of this section.

(3) For special education and support services provided in each school fiscal year, the ~~department State Department of Education~~ shall reimburse each school district in the following school fiscal year a pro rata amount determined by the department. The reimbursement percentage shall be the ratio of the difference of the appropriations for special education approved by the Legislature minus the amounts set aside pursuant to subsection (5) of this section divided by the total allowable excess costs for all special education programs and support services.

(4) Cooperatives of school districts or educational service units shall also be eligible for reimbursement for cooperative programs pursuant to this section if such cooperatives or educational service units have complied with the reporting and approval requirements of section 79-1155 for cooperative programs which were offered the preceding year. The payments shall be made by the department to the school district of residence, cooperative of school districts, or educational service unit each year in a minimum of seven payments between the fifth and twentieth day of each month beginning in December. Additional payments may be made based upon additional valid claims submitted. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The director shall, upon receiving such certification, draw warrants against funds appropriated.

(5) ~~Residential On and after August 1, 2010, residential~~ settings described in subdivision (10)(c) of section 79-215 shall be reimbursed for the educational services, including special education services and support services, ~~provided pursuant to such subdivision on or after August 1, 2010,~~ in an amount determined pursuant to the average per pupil cost of the service agency. Reimbursements pursuant to this section shall be made from funds set aside for such purpose within sixty days after receipt of a reimbursement request submitted in the manner required by the department and including any documentation required by the department for educational services that have been provided, except that if there are not any funds available for the remainder of the state fiscal year for such reimbursements, the reimbursement shall occur within thirty days after the beginning of the immediately following state fiscal year. The department may audit any required documentation and subtract any payments made in error from future reimbursements. The ~~department State Board of Education~~ shall set aside separate amounts from the appropriations for special education approved by the Legislature for reimbursements pursuant to this subsection for students receiving special education services and for students receiving support services for each state fiscal year. The amounts set aside for each purpose shall be based on estimates of the reimbursements to be requested during the state fiscal year and shall not be less than the total amount of reimbursements requested in the prior state fiscal year plus any unpaid requests from the prior state fiscal year.

Sec. 33. Section 79-1144, Revised Statutes Cumulative Supplement, 2018, is amended to read:

79-1144 (1) Funds shall be appropriated by the Legislature to carry out sections 79-1142 to 79-1144 and 79-1147 and included in the budget of ~~Such~~

~~funds shall be channeled through the department State Department of Education. The department is authorized to expend such funds upon proper vouchers approved by the department and warrants issued by the Director of Administrative Services for financial reimbursement to school districts, educational service units, special education cooperatives created by school districts, agencies, and parents or guardians, including (a) reimbursement pursuant to section 79-1129 for actual transportation expenses per year for children with disabilities a pro rata amount which shall be determined by the department State Board of Education from appropriations for special education approved by the Legislature based on all actual allowable transportation costs, (b) reimbursement for instructional aids and consultative, supervisory, research, and testing services to school districts, and (c) reimbursement for salaries, wages, maintenance, supplies, travel, and other expenses essential to carrying out the provisions for special education programs. Minor building modifications shall not be eligible for state reimbursement as an allowable expense. Applications for state reimbursement for actual transportation expenses shall be submitted to the department annually on a date and on forms prescribed by the department. Amendments to applications for actual transportation expenses shall be submitted on dates prescribed by the department during the school year in which the original application was made.~~

(2) Any adjustment of payments pursuant to section 79-1065 caused by the failure of a school district to meet federal spending requirements under the federal Individuals with Disabilities Education Act as such act existed on January 1, ~~2019~~ 2017, may be used by the department to reimburse the United States Department of Education in the amount of the federal funds awarded to such school district or the amount of such adjustment, whichever is less.

Sec. 34. Section 79-1145, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1145 (1) For each fiscal year prior to fiscal year 2014-15, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, increased by five percent. (2) For each fiscal year 2014-15 and each fiscal year thereafter, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, increased by ten percent. For purposes of this section, for fiscal year 2016-17 the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 for the previous fiscal year shall be the net amount after any decrease required pursuant to section 43-2515.~~

Sec. 35. Section 79-1147, Reissue Revised Statutes of Nebraska, is amended to read:

79-1147 Whenever a child with a disability must temporarily reside in a residential facility, boarding home, or foster home in order to receive an appropriate special education program, the State of Nebraska shall provide for the ordinary and reasonable cost of the residential care during the duration of the special education program. The state shall not be required to pay such cost unless placement of the child in a special education program requiring residential care was made by the school district of residence with the prior approval of the ~~department State Department of Education~~ or was made pursuant to sections 79-1162 to 79-1167.

Sec. 36. Section 79-1148, Reissue Revised Statutes of Nebraska, is amended to read:

79-1148 The ~~department State Department of Education~~ is authorized to set up one or more statewide regional networks, approved schools, or centers for children with disabilities. Any such regional network, school, or center may offer residential facilities or services for such children, and such services shall be under the control and supervision of the ~~department State Department of Education~~.

Sec. 37. Section 79-1149, Reissue Revised Statutes of Nebraska, is amended to read:

79-1149 The admission to any regional network, school, or center, as provided by section 79-1148, shall be by rules and regulations ~~to be adopted and~~ promulgated, ~~and administered~~ by the State ~~Board~~ Department of Education.

Sec. 38. Section 79-1154, Reissue Revised Statutes of Nebraska, is amended to read:

79-1154 The ~~department State Board of Education~~ shall review special training and educational programs offered by or in conjunction with any public school district, combination of public school districts, educational service unit, or combination of educational service units subject to the following:

(1) Each teacher in any such special program shall be qualified;

(2) Teacher aides working with any such program shall have such qualifications as the governing body of the school district, educational service unit, or combination shall prescribe and shall participate in appropriate inservice activities; and

(3) Each qualified teacher shall be responsible for the direct supervision of teacher aides, whose duties shall be limited to those prescribed in section 79-802.

For purposes of this section, qualified teacher means an individual holding a valid State of Nebraska teaching or special services certificate with an endorsement appropriate to the disabilities served. If such teacher is

serving children with more than one disability, qualified teacher means an individual holding a valid State of Nebraska teaching or special services certificate with an endorsement in at least one of the disabilities served.

Sec. 39. Section 79-1155, Reissue Revised Statutes of Nebraska, is amended to read:

79-1155 All school districts shall, on a date prescribed by the department ~~State Department of Education~~, file with the department application information for special education programs and support services. Cooperatives of school districts or educational service units applying for grants or reimbursement for programs pursuant to section 79-1132, 79-1142, or 79-1144 shall also file application information pursuant to this section. The application forms shall conform to reporting requirements provided in section 79-1156. The department shall review and take action to approve, approve with modifications, or disapprove the application for special education programs of the school district, cooperative of school districts, or educational service unit. Supplementary amendments to any program application previously approved by the department may be submitted on dates specified by the department during the same school year and shall be subject to the same review and approval as the initial application. The department shall approve, approve with modifications, or disapprove all supplementary amendments to the program application. All final financial reports on special education and support services costs shall be reported to the department by October 31 of each year for the preceding school year on forms prescribed by the department. Any program that provides residential care shall show the costs of such care separately from the costs of the education program.

Sec. 40. Section 79-1156, Reissue Revised Statutes of Nebraska, is amended to read:

79-1156 The department ~~State Department of Education~~ shall coordinate information reporting requirements for special education and support services programs with other educational data reporting requirements of the department to the extent possible. The application for programs shall contain the information required by the department.

Sec. 41. Section 79-1157, Reissue Revised Statutes of Nebraska, is amended to read:

79-1157 All special education programs shall be reviewed by the department ~~State Department of Education~~.

To enable the ~~State Department of Education~~ to determine the effectiveness of the programs and services being provided, the department shall conduct a program of continuing evaluations of the different types of programs and services being provided for each of the service groups. In conducting these evaluations, the department shall take into account such factors as numbers and types of children with disabilities, class sizes, qualifications of staff, and other factors which the department deems appropriate. The department shall conduct evaluations of all programs and services and shall conduct these evaluations in such a manner as to enable the department to compare the relative effectiveness of the same or similar programs or services provided in different locations.

Evaluation studies shall be designed to provide the Legislature, the department ~~State Department of Education~~, the school districts, and other service agencies with the following information:

- (1) A detailed description of groups served;
- (2) A detailed description of the kind of programs or services provided and their cost per unit of service as well as the cost of each service; and
- (3) A detailed description of the effectiveness of the programs or services.

Sec. 42. Section 79-1158, Reissue Revised Statutes of Nebraska, is amended to read:

79-1158 No reimbursement for special education and support services programs shall be allowed unless the program meets the standards established by the department ~~State Department of Education~~.

Sec. 43. Section 79-1159, Reissue Revised Statutes of Nebraska, is amended to read:

79-1159 The department ~~State Department of Education~~, upon the request of any school district, shall provide technical assistance in the promulgation of any plan, program, or report required by the Special Education Act. Such assistance shall be given only in an advisory capacity and shall not be designed or construed to transfer, either in whole or in part, the responsibility for or actual development or implementation of such plan, program, or report.

Sec. 44. Section 79-1159.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1159.01 The department ~~State Department of Education~~ shall establish a registry for assistive technology devices to encourage and facilitate cooperation and shared usage of assistive technology devices. Participation by school districts, educational service units, and approved cooperatives shall be voluntary.

Sec. 45. Section 79-1160, Reissue Revised Statutes of Nebraska, is amended to read:

79-1160 The State Board ~~Department~~ of Education may ~~shall~~ adopt, promulgate, and publish rules and regulations necessary to carry out the Special Education Act. ~~Such rules and regulations shall include, but not be limited to, the regulation of costs under section 79-1152, limitation of the program to children with disabilities who require residential care in order to~~

~~receive an appropriate special education program, and provisions for contracts with the Department of Health and Human Services to assist in the administration of the act.~~

Sec. 46. Section 79-1161, Reissue Revised Statutes of Nebraska, is amended to read:

79-1161 (1) School districts shall establish and maintain procedures to protect the rights of a child with a disability whenever (a) no parents of the child can be identified, (b) the school district cannot, after reasonable efforts, locate a parent of the child, (c) the child is a ward of the state, or (d) the child is an unaccompanied or homeless youth as defined in the ~~McKinney-Vento Homeless Assistance Act~~, 42 U.S.C. ~~11434a~~ 11434a(6), as such section existed on January 1, ~~2019~~ 2009. Such procedures shall include the assignment of an individual to act as a surrogate for the parents. The school district shall make reasonable efforts to ensure the assignment of a surrogate not more than thirty days after there is a determination by the district that the child needs a surrogate. In the case of a child who is a ward of the state, such surrogate may alternatively be appointed by the judge overseeing the child's care if the surrogate meets the requirements of subdivision (2)(c) of this section.

(2) The surrogate parent shall (a) have no interest which conflicts with the interest of the child, (b) have knowledge and skills that insure adequate representation, and (c) not be an employee of any agency involved in the care or education of the child. A person otherwise qualified to be a surrogate parent under this subsection is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent. The surrogate parent appointed under this section may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child.

(3) The services of the surrogate parent shall be terminated when (a) the child is no longer eligible under subsection (1) of this section, (b) a conflict of interest develops between the interest of the child and the interest of the surrogate parent, or (c) the surrogate parent fails to fulfill his or her duties as a surrogate parent. Issues arising from the selection, appointment, or removal of a surrogate parent by a school district shall be resolved through hearings established under sections 79-1162 to 79-1167. The surrogate parent and the school district which appointed the surrogate parent shall not be liable in civil actions for damages for acts of the surrogate parent unless such acts constitute willful and wanton misconduct.

Sec. 47. Section 79-1162, Reissue Revised Statutes of Nebraska, is amended to read:

79-1162 A parent, guardian, competent student of the age of majority, or school district may initiate a hearing on matters related to the initiation, change, or termination or the refusal to initiate, change, or terminate the identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education or records relating thereto. A copy of the procedures specified in rules and regulations of the ~~department State Department of Education~~ for complaints and hearings under this section shall be provided by school districts to all parents and guardians of children with disabilities upon initial consideration of the provision of services for their children with disabilities. Such hearing shall be initiated by filing a petition with the ~~department State Department of Education~~.

Sec. 48. Section 79-1163, Reissue Revised Statutes of Nebraska, is amended to read:

79-1163 The ~~department State Department of Education~~ shall conduct hearings initiated under section 79-1162 using hearing officers and ~~The State Department of Education~~ may employ, retain, or approve such qualified hearing officers as are necessary to conduct hearings provided by sections ~~79-1152 and~~ 79-1162 to 79-1167. The hearing officers shall not be persons who are employees or officers of a state or local public agency which is involved in the education or care of the child with a disability on whose behalf the hearing is being held. A person who otherwise qualifies to conduct a hearing under such sections is not an employee of the agency solely because the person is paid by the agency to serve as a hearing officer. No hearing officer shall participate in any way in any hearing or matter in which the hearing officer may have a conflict of interest. Hearing officers appointed and assigned by the ~~department State Department of Education~~ shall have exclusive original jurisdiction over cases arising under such sections, and juvenile courts shall not in any event have jurisdiction over such matters.

Sec. 49. Section 79-1164, Reissue Revised Statutes of Nebraska, is amended to read:

79-1164 Upon the receipt of a petition filed under section 79-1162, the ~~department State Department of Education~~ shall assign it to a hearing officer. The hearing officer shall receive all subsequent pleadings and shall conduct the hearing. At the hearing the parties shall present evidence on the issues raised in the pleadings. At the completion of the proceedings, the hearing officer shall prepare a report based on the evidence presented containing findings of fact and conclusions of law. Within forty-five days after the receipt of a request for a hearing, the hearing officer shall prepare a final decision and order directing such action as may be necessary. At the request of either party for good cause shown, the hearing officer may grant specific extensions of time beyond this period. The report and the final decision and order shall be delivered via certified mail to each party or attorney of record



and to the Commissioner of Education.

Sec. 50. Section 79-1167, Reissue Revised Statutes of Nebraska, is amended to read:

79-1167 (1) Any party to a hearing conducted under sections 79-1162 to 79-1166 aggrieved by the findings, conclusions, or final decision and order of the hearing officer is entitled to judicial review under this section. Any party of record also may seek enforcement of the final decision and order of the hearing officer pursuant to this section.

(2) Proceedings for judicial review shall be instituted by filing a petition in the district court of the county in which the main administrative offices of the school district are located within two years after service of the final decision and order on the party seeking such review. All parties of record shall be made parties to the proceedings. The court, in its discretion, may permit other interested parties to intervene.

(3) The filing of a petition for judicial review shall operate to stay the enforcement of the final decision and order of the hearing officer. While judicial proceedings are pending and unless the school district and the parent or guardian otherwise agree, the child with a disability shall remain in his or her current educational placement or if applying for initial admission to a public school such child shall, with the consent of the parent or guardian, be placed in the public school program until all such proceedings have been completed. If the decision of the hearing officer agrees with the parent or guardian of the child that a change in placement is appropriate, then that placement shall be treated as an agreement between the parties for purposes of this subsection.

(4) Within fifteen days after receiving notification that a petition for judicial review has been filed or if good cause is shown within such further time as the court may allow, the ~~department~~ State Department of Education shall prepare and transmit to the court a certified transcript of the proceedings before the hearing officer.

(5) Judicial review shall be conducted by the court without a jury. The court shall receive the records of the administrative proceedings, hear additional evidence at the request of a party, base its decision on the preponderance of the evidence, and grant such relief as the court determines is appropriate.

(6) An aggrieved party may secure a review of any final judgment of the district court under this section by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals in civil cases and shall be heard de novo on the record.

(7) Proceedings for enforcement of a hearing officer's final decision and order shall be instituted by filing a petition for appropriate relief in the district court of the county in which the main administrative offices of the school district are located within one year after the date of the hearing officer's final decision and order.

Sec. 51. Section 79-1302, Reissue Revised Statutes of Nebraska, is amended to read:

79-1302 The Legislature finds that the utilization of appropriate technologies can provide enhanced educational services and broadened educational opportunities for Nebraska learners. It is the intent of the Legislature: (1) To utilize technology to provide effective and efficient digital distance learning; (2) to provide assistance and direction in the training of Nebraska teachers in uses of technology for instruction through electronic means; (3) to establish and support an electronic data network and data bases for Nebraska educators and learners; (4) to support the evaluation and dissemination of models of successful technologies which improve instruction or learning; (5) to provide support for cooperative education-technology ventures in partnership with public or private entities; and (6) to provide support for cooperative purchase or leasing of administrative or instructional software or software licenses in partnership with schools, educational service units, and other states.

Sec. 52. Section 79-1304, Reissue Revised Statutes of Nebraska, is amended to read:

79-1304 The Educational Technology Center has, but is not limited to, the following specific duties:

(1) To evaluate Internet-based digital distance education courses and open education resources;

(2) To provide clearinghouse services for information concerning current technology projects as well as software and hardware development;

(3) To serve as a demonstration site for state-of-the-art hardware appropriate to an educational setting;

(4) To provide technical assistance to educators in working with ~~hardware~~ and software and Internet-based resources;

(5) To provide inservice and preservice training for educators, in conjunction with other educational entities as defined in section 79-1201.01, in the use of digital devices, communication systems, computers, telecommunications, and other electronic technologies appropriate to an educational setting;

(6) To sponsor activities which promote the use of technology in the classroom;

(7) To serve as a liaison between business and education interests in technology communication;

(8) To support research and recommendations for digital ~~experiment with various applications and~~ or technology in education;

(9) To assist schools in planning for and selecting appropriate technologies;

(10) To design, implement, and evaluate pilot projects to assess the usefulness of technologies in school management, curriculum, instruction, and learning;

(11) To seek partnerships with the Nebraska Educational Telecommunications Commission, the University of Nebraska, the state colleges, community colleges, educational service units, the Nebraska Library Commission, the office of the Chief Information Officer, Network Nebraska, and other public and private entities in order to make effective use of limited resources;

(12) To encourage sharing among school districts to deliver cost-efficient and effective digital distance learning; and

(13) To identify, evaluate, and disseminate information on school projects which have the potential to enhance the quality of instruction or learning.

Sec. 53. Section 79-2202, Reissue Revised Statutes of Nebraska, is amended to read:

79-2202 For purposes of the Interstate Compact on Educational Opportunity for Military Children and sections 79-2202 to 79-2205 ~~79-2206~~:

(1) Council means the State Council on Educational Opportunity for Military Children;

(2) Department means the State Department of Education;

(3) Local education agency means a school district as defined in section 79-101; and

(4) State superintendent of education means the Commissioner of Education.

Sec. 54. Section 83-121, Reissue Revised Statutes of Nebraska, is amended to read:

83-121 There is hereby created the School District Reimbursement Fund for use by the Department of Health and Human Services. The fund shall consist of money received from school districts or the department ~~pursuant to section 79-1152~~ for the operation of special education programs within the department. The fund shall be used for the operation of such programs pursuant to sections ~~79-1152, 79-1153, and 79-1155~~ to 79-1158.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 55. Section 83-1225, Reissue Revised Statutes of Nebraska, is amended to read:

83-1225 Each school district shall provide transition services for each student with a developmental disability no later than when the student reaches sixteen years of age and until the student graduates from a special education program or ~~is no longer meets the definition of a child with a disability pursuant to section 79-1117 eligible to receive services pursuant to section 79-1126~~. Transition services shall consist of a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation. The transition team shall designate one or more specialized service providers to develop a plan for the student's transition to adult specialized services.

Sec. 56. Original sections 77-3446, 79-515, 79-807, 79-1110, 79-1113, 79-1115, 79-1115.01, 79-1117, 79-1119, 79-1119.01, 79-1124, 79-1125.01, 79-1126, 79-1127, 79-1128, 79-1129, 79-1130, 79-1132, 79-1135, 79-1136, 79-1138, 79-1139, 79-1142, 79-1145, 79-1147, 79-1148, 79-1149, 79-1154, 79-1155, 79-1156, 79-1157, 79-1158, 79-1159, 79-1159.01, 79-1160, 79-1161, 79-1162, 79-1163, 79-1164, 79-1167, 79-1302, 79-1304, 79-2202, 83-121, and 83-1225, Reissue Revised Statutes of Nebraska, sections 79-318, 79-1003, 79-1005.01, 79-1007.07, 79-1007.09, 79-1008.01, 79-1017.01, and 79-1144, Revised Statutes Cumulative Supplement, 2018, and section 79-1022, Revised Statutes Cumulative Supplement, 2018, as amended by section 1, Legislative Bill 430, One Hundred Sixth Legislature, First Session, 2019, are repealed.

Sec. 57. The following sections are outright repealed: Sections 79-527, 79-1007.04, 79-1007.17, 79-1007.23, 79-1007.25, 79-1028.03, 79-1152, 79-1153, 79-1188, and 79-2206, Reissue Revised Statutes of Nebraska, and section 79-1008.02, Revised Statutes Cumulative Supplement, 2018.

Sec. 58. Since an emergency exists, this act takes effect when passed and approved according to law.