

LEGISLATIVE BILL 1050

Approved by the Governor April 5, 1996

Introduced by Education Committee: Bohlke, 33, Chairperson; Beutler, 28; Janssen, 15; McKenzie, 34; Stuhr, 24; Warner, 25; Wickersham, 49

AN ACT relating to schools; to amend sections 77-913, 79-402, 79-516.08, 79-1522.01, 79-3404, 79-3409, 79-3802, 79-3805, 79-3807, 79-3808, 79-3810, 79-3811, 79-3817, and 79-3822, Reissue Revised Statutes of Nebraska, and sections 79-4, 176.01, 79-4, 179.01, 79-4, 180, 79-3801, 79-3803, 79-3804, 79-3806, 79-3806.01, 79-3809, 79-3811.01, 79-3811.02, 79-3812, 79-3813, and 79-3819, Revised Statutes Supplement, 1995; to change provisions and dates relating to calculating state aid to schools; to change provisions relating to the Student Discipline Act and depopulated districts; to authorize distributions from the Insurance Tax Fund for equalization aid; to change provisions relating to budget limitations; to change provisions relating to the enrollment option program and payments for option students; to change dates relating to federal impact aid; to provide incentives for reorganized districts and reorganization studies; to establish the Retirement Incentive Plan and Staff Development Assistance for certain reorganized districts; to provide for a study; to harmonize provisions; to provide severability; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 77-913, Reissue Revised Statutes of Nebraska, is amended to read:

77-913. The Insurance Tax Fund is created. The State Treasurer shall receive the funds paid pursuant to Chapter 77, article 9, and, except as provided in sections 77-912 and 77-918, shall keep all money received in a separate fund to be known as the Insurance Tax Fund. 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.

Prior to June 1 of each year, the State Treasurer shall disburse or allocate all of the funds in the Insurance Tax Fund on May 1 of each year as follows:

- (1) Ten percent of the total shall be allocated to the counties proportionately in the proportion that the population of each county bears to the entire state, as shown by the last United States Government census;
- (2) Thirty percent of the total shall be allocated to incorporated municipalities proportionately in the proportion that the population of each incorporated municipality bears to the total population of all incorporated municipalities, as determined by the last United States Government census; and
- (3) Sixty percent of the total shall be allocated to the State Department of Education for distribution to school districts based on the pro rata enumeration of children who are five through eighteen years of age in each school district. The Commissioner of Education shall certify the amount allocated to each school district to the Director of Administrative Services who shall, on June 1 of each year, draw a warrant on the State Treasurer in favor of each such school district for the respective amounts so certified by the commissioner as equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act as follows: The Commissioner of Education shall (a) include the amount certified by the State Treasurer pursuant to this section with the amount appropriated to the Tax Equity and Educational Opportunities Fund for distribution in the ensuing school fiscal year, (b) include such amounts in the state aid certified to each school district pursuant to section 668, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, and (c) distribute such funds as equalization aid under the provisions of the act during the ensuing fiscal year.

Sec. 2. Section 79-402, Reissue Revised Statutes of Nebraska, is amended to read:

79-402. (1) The county superintendent shall create a new school district from other districts, change the boundaries of any district, or affiliate a Class I district or portion thereof with one or more existing Class II, III, IV, or V districts upon receipt of petitions signed by sixty percent of the legal voters of each district affected, except that petitions

shall contain signatures of at least sixty-five percent of the legal voters of each district affected if the proposed change has been disapproved by both the state and county committees for school district reorganization or, in the case of affiliation, if the petition has been disapproved by the county committee pursuant to sections 79-402.14 and 79-402.15. When area is added to a Class VI district or when a Class I district which is entirely or partially within a Class VI district is taken from the Class VI district, the Class VI district shall be deemed to be an affected district.

(2) Petitions proposing to change the boundaries of existing school districts through the transfer of a parcel of land, not to exceed six hundred forty acres, may be acted upon and so transferred by order of the county superintendent when the petitions involve the transfer of land between Class I, II, III, IV, or V school districts or when there would be an exchange of parcels of land between Class I, II, III, IV, or V school districts if the petitions have the approval of at least sixty-five percent of each school board or board of education.

(3)(a) Petitions proposing to create a new school district, to change the boundary lines of existing school districts, to create an affiliated school system, or to affiliate a Class I district in part and to join such district in part with a Class VI district, any of which involves the transfer of more than six hundred forty acres, shall, when signed by at least sixty percent of the legal voters in each district affected, be submitted to the county committee for school district reorganization. In the case of a petition for affiliation or a petition to affiliate in part and in part to join a Class VI district, the county committee shall review the proposed affiliation subject to sections 79-402.14 and 79-402.15. The county committee shall, within forty days, review and approve or disapprove such proposal and submit it to the state committee for school district reorganization, except that an affiliation petition or a petition to affiliate in part and in part to join a Class VI district shall not be submitted to the state committee and the county committee's approval or disapproval shall be final.

(b) The state committee shall, within forty days, review and approve or disapprove the proposal and return it with any recommendations deemed advisable to the county committee. The state committee shall also review and issue a preliminary approval or disapproval of incentive payments under section 19 of this act prior to returning the proposal to the county committee. The county committee shall, within fifteen days of receipt of the returned proposal, consider the action of the state committee and determine whether to give final approval or disapproval to the proposal.

(c) The county committee shall, within fifteen days of receipt of the returned proposal or of the committee's final approval or disapproval of an affiliation petition or a petition to affiliate in part and in part to join a Class VI district, advertise and hold a public hearing at which the recommendations and action of the state and county committees are presented to the legal voters in attendance. The county committee shall hold the petitions for ten days following the hearing at the end of which time the committee shall file the petitions with the county superintendent.

(d) The county superintendent shall, within fifteen days, advertise and hold a hearing to determine the validity and sufficiency of the petitions. Upon determination, as a result of the hearing, that sufficient valid signatures are contained in the respective petitions, the county superintendent shall proceed to effect the changes in district boundary lines as set forth in the petitions.

(4) Any person adversely affected by the changes made by the county superintendent may appeal to the district court of any county in which the real estate or any part thereof involved in the dispute is located. If the real estate is located in more than one county, the court in which an appeal is first perfected shall obtain jurisdiction to the exclusion of any subsequent appeal.

(5) A signing petitioner shall be permitted to withdraw his or her name therefrom and a legal voter shall be permitted to add his or her name thereto at any time prior to the end of the ten-day period when the county committee files such petitions with the county superintendent.

Sec. 3. Section 79-4,176.01, Revised Statutes Supplement, 1995, is amended to read:

79-4,176.01. (1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a school-owned vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or his or her designee, or at a school-sponsored activity or athletic event. For purposes

of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or school board to modify the expulsion requirement on an individual basis.

(2) Each school district shall provide annually to the State Department of Education:

(a) An assurance that the school district has in effect the policy required by subsection (1) of this section; and

(b) A description of the circumstances surrounding any expulsions imposed under the policy required by subsection (1) of this section, including:

(i) The name of the school concerned;

(ii) The number of students expelled from the school; and

(iii) The types of weapons concerned.

Sec. 4. Section 79-4,179.01, Revised Statutes Supplement, 1995, is amended to read:

79-4,179.01. (1) Beginning July 1, 1997, each school district shall have an alternative school, class, or educational program available or in operation for all expelled students. A school district that has expelled a student may suspend the enforcement of such expulsion for a period of not more than one full semester in addition to the balance of the semester in which the expulsion takes effect and may, as a condition of such suspended an alternative action, assign the student to a school, class, or alternative educational program which the school district deems appropriate for rehabilitation of the student. Any two or more school boards may join together in providing such alternative schools, classes, or educational programs. Any district may by agreement with another district send its suspended or expelled students to any alternative school, class, or educational program already in operation by such other district. In lieu of other authorized educational programs to which the student may be assigned, such school, class, or an educational program may be offered as include, but shall not be limited to, individually prescribed educational and counseling programs or a community-centered classroom and may include with experiences for the student as an observer or aide in governmental functions, as an on-the-job trainee, and or as a participant in specialized tutorial experiences, or individually prescribed educational and counseling programs. Such programs shall include an individualized learning program to enable the student to continue academic work for credit toward graduation. Beginning January 1, 1997, each school district in lieu of any other program authorized by this section shall have an alternative school, class, or educational program available or in operation for all students expelled or whose expulsion has been suspended under this section. The State Department of Education shall adopt and promulgate rules and regulations relating to alternative schools, classes, and educational programs.

(2) A school district that has expelled a student may suspend the enforcement of such expulsion unless the expulsion was required by subsection (4) of section 87, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996. The suspension may be for a period not to exceed the length of the expulsion. As a condition of such suspended action, the school district may assign the student to a school, class, or educational program which the school district deems appropriate. At the conclusion of the designated such suspension period, the school district shall (1) (a) reinstate any student who has satisfactorily participated in the school, class, or educational program to which such student has been assigned and permit the student to return to the school of former attendance or to attend other programs offered by the district or (2) (b) if the student's conduct has been unsatisfactory, enforce the remainder of the expulsion action.

If the student is reinstated, the district may also take action to expunge the record of the expulsion action.

Sec. 5. Section 79-4,180, Revised Statutes Supplement, 1995, is amended to read:

79-4,180. The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a school-owned vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

(1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;

(2) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or

repeated damage or theft involving property;

(3) Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;

(4) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;

(5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;

(6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section 28-401, a substance represented to be a controlled substance, or alcoholic liquor as defined in section 53-103 or being under the influence of a controlled substance or alcoholic liquor;

(7) Public indecency as defined in section 28-806, except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;

(8) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at ~~an educational function~~ a school function, activity, or event. For purposes of this subdivision, sexual assault shall mean sexual assault in the first degree and sexual assault in the second degree as defined in sections 28-319 and 28-320, as such sections now provide or may hereafter from time to time be amended;

(9) Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or

(10) A repeated violation of any rules and standards validly established pursuant to section 79-4,176 if such violations constitute a substantial interference with school purposes.

It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

Sec. 6. Section 79-516.08, Reissue Revised Statutes of Nebraska, is amended to read:

79-516.08. (1) Commencing with the 1992-93 school year, if the fall school district membership or the average daily membership of an existing Class II or III school district shows less than thirty-five students in grades nine through twelve, the district shall submit a plan for developing cooperative programs with other high schools, including the sharing of curriculum and certificated and noncertificated staff, to the county committee for the reorganization of school districts of the county in which the school district is located. The cooperative program plan shall be submitted by the school district by September 1 of the year following such fall school district membership or average daily membership report. A cooperative program plan shall not be required if there is no high school within fifteen miles from such district on a reasonably improved highway. The county committee shall review the plan and provide advice and communication to such school district and other high schools.

(2)(a) If for two consecutive years the fall school district membership, or for two consecutive years the average daily membership, of an existing Class II or III school district is less than twenty-five pupils in grades nine through twelve or if for one year an existing Class II or III school district contracts with a neighboring school district or districts to provide educational services for all of its pupils in grades nine through twelve, such school district shall, except as provided in subsection (3) of this section, become a Class I school district through the order of the county superintendent if the high school is within fifteen miles on a reasonably improved highway of another high school.

(b) During the second consecutive year an existing Class II or III school district has less than twenty-five pupils in grades nine through twelve pursuant to subdivision (a) of this subsection and if the high school is within fifteen miles on a reasonably improved highway of another high school, any freeholder or freeholders, person in possession or constructive possession as vendee pursuant to a contract of sale of the fee, holder of a school land lease under section 72-232, or entrant upon government land who has not yet received a patent therefor may file a petition with a board consisting of the county superintendent, county clerk, and county treasurer, asking to have any tract or tracts of land described in the petition set off from a Class II or

III school district as described in such subdivision in which it is situated and attached to an accredited district in the same county or an adjoining county thereto. The petition shall state the reasons for the proposed change and shall show with reference to the land of each petitioner: (i) That (A) the land described in the petition is either owned by the petitioner or petitioners or that he, she, or they hold a school land lease under section 72-232, are in possession or constructive possession as vendee under a contract of sale of the fee simple interest, or have made an entry on government land but have not yet received a patent therefor and (B) such tract of land includes all such contiguous land owned or controlled by each petitioner; (ii) that the land described in the petition is located in a Class II or III district as described in subdivision (a) of this subsection and is to be attached to an accredited school district in the same county or an adjoining county thereto; and (iii) that such petition is approved by a majority of the members of the school board of the district to which such land is sought to be attached. The petition shall be verified by the oath of each petitioner. The board shall, after a public hearing on the petition and a determination that all requirements of this subdivision have been complied with, change the boundaries of the school districts so as to set off the land described in the petition and attach it to such district pursuant to the petition. Notice of the filing of the petition and of the hearing for such petition before the board shall be given at least ten days prior to the date of such hearing by one publication in a legal newspaper of general circulation in each district and by posting a notice on the outer door of the schoolhouse in each district affected thereby, and such notice shall designate the territory to be transferred. Petitions requesting transfers of property across county lines shall be addressed jointly to the county superintendents of the counties concerned, and the petitions shall be acted upon by the county superintendents, county clerks, and county treasurers of the counties involved as one board, with the county superintendent of the county from which the land is sought to be transferred acting as chairperson of the board. When the tract of land attached is not contiguous to the district receiving such land, the transportation allowance provisions of section 79-490 shall not extend beyond the boundary line of the receiving district that existed prior to the attachment of such tract of land.

Appeals may be taken from the action of such board, or when such board fails to agree, to the district court of the county in which the land is located within twenty days after entry of such action on the records of the board by the county clerk of the county in which the land is located or within twenty days after March 15 if the board fails to act upon such petition in the same manner as appeals are now taken from the action of the county board in the allowance or disallowance of claims against the county.

(c) This subsection shall not apply to any school district located on an Indian reservation and substantially or totally financed by the federal government.

(3) Any Class II or III school district maintaining a four-year high school which has a fall school district membership or an average daily membership of less than twenty-five students in grades nine through twelve may contract with another school district to provide educational services for its pupils in grades nine through twelve. Such contract may continue for a period, not to exceed one year. At the end of such one-year period, the school district may resume educational services for grades nine through twelve if the average daily membership in grades nine through twelve for such school district has reached at least fifty students. If the school district has not achieved such fall school district membership or average daily membership, it shall become a Class I school district as prescribed in subsection (2) of this section by order of the county superintendent entered after thirty days' notice to the district but without a hearing, notwithstanding the distance on a reasonably improved highway to the nearest school district conducting a high school.

(4) For purposes of this section, when calculating fall school district membership or average daily membership, a resident school district as defined in section 79-3402 shall not count students attending an option district as defined in section 79-3402 and a Class II or III school district shall not count foreign exchange students and nonresident students who are wards of the court or state.

Sec. 7. Section 79-1522.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1522.01. (1) In lieu of the school retirement allowance provided by section 79-1522, any member who is not an employee of a Class V school district and who becomes eligible to make application for and receive a school retirement allowance under section 79-1520 may receive a formula annuity

retirement allowance if it is greater than the school retirement allowance provided by section 79-1522.

(2) Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of service for which such member would otherwise receive the service annuity provided by section 79-1522 (1) by one and one-quarter percent of his or her final average compensation, (2) by one and one-half percent of his or her final average compensation, (3) by one and sixty-five hundredths percent of his or her final average compensation, or (4) by one and seventy-three hundredths percent of his or her final average compensation. If the annuity begins prior to the sixty-fifth birthday of the member and the member has completed thirty or more years of creditable service and is at least sixty years of age, the annuity shall not be reduced. If the annuity begins on or after the sixtieth birthday of the member and the member has completed five or more but less than thirty years of creditable service, the annuity shall be reduced by three percent for each year by which the member's age is less than the age at which the member's age plus years of service would have totaled ninety or three percent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday, whichever provides the greater annuity. A member shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using one and one-quarter percent of his or her final average compensation as one of the factors, shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 17, 1982, to be eligible for computation of his or her formula annuity using one and one-half percent of his or her final average compensation as one of the factors, or shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1984, to be eligible for computation of his or her formula annuity using one and sixty-five hundredths percent of his or her final average compensation as one of the factors. A member shall be actively employed as a public school employee under the retirement system or under contract with an employer on June 1, 1993, to be eligible for computation of his or her formula annuity using one and seventy-three hundredths percent of his or her final average compensation as one of the factors.

(3) The normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made. A member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-1530.

(4) Final average compensation for full-time employees shall be determined by dividing the member's total compensation subject to required deposits for the three fiscal years in which such compensation was the highest by thirty-six. Final average compensation for part-time employees shall be determined by dividing total adjusted compensation subject to required deposits for the three fiscal years in which such adjusted compensation was the highest by thirty-six. If a member has such compensation for less than three such fiscal years, his or her final average compensation shall be determined by dividing his or her total compensation in all such years by twelve times the total number of years of his or her service therefor. Adjusted compensation for any year shall be equal to actual pay times the ratio of one to the actual credited service for such year.

Payments under the Retirement Incentive Plan pursuant to section 34 of this act and Staff Development Assistance pursuant to section 35 of this act shall not be included in the determination of final average compensation.

(5) All formula annuities shall be paid from the Annuity Reserve Account. Upon the granting of a formula annuity, there shall be transferred to the Annuity Reserve Account: (a) From the Service Annuity Account, the value of the service annuity which would otherwise be payable; (b) from the School Employees Savings Account, the accumulated contributions of the member; and (c) from the School Employers Deposit Account, the value of the formula annuity in excess of the amounts transferred from the Service Annuity Account and the School Employees Savings Account. The amounts transferred from the Service Annuity Account at any time after such member attains sixty years of age and prior to his or her sixty-fifth birthday or thirty-five years of creditable service shall be on an actuarially reduced basis.

(6) A person receiving a retirement benefit may accept employment in

a postsecondary school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, the Community College Board of Governors for each community college area established by section 85-1504, or any other state agency without having to waive retirement payments, without having to notify the retirement board, and without being subject to any withholding of future retirement payments relating to any retirement system which is provided for a public school.

Sec. 8. Section 79-3404, Reissue Revised Statutes of Nebraska, is amended to read:

79-3404. For purposes of all duties, entitlements, and rights established by law, including special education as provided in section 79-3320, except as provided in section 79-3410, option students shall be treated as resident students of the option school district. The option student may request a particular school building, but the building assignment of the option student shall be determined by the option school district.

Sec. 9. Section 79-3409, Reissue Revised Statutes of Nebraska, is amended to read:

79-3409. (1) Upon agreement of the school boards or boards of education of the resident school district and the option school district, the deadlines for application and approval or rejection prescribed in section 79-3406 may be waived.

(2) The application of a student who relocates in a different school district but wants to continue attending his or her original resident school district and who has been enrolled in his or her original resident school district for the immediately preceding two years and the application of any sibling of any such student to attend kindergarten or first grade in such original resident school district shall be automatically accepted, and the deadlines prescribed in section 79-3406 shall be waived.

(3) The application of an option student who relocates in a different school district but wants to continue attending the option school district shall be automatically accepted, and the deadlines prescribed in section 79-3406 shall be waived.

(4) The sibling of any option student shall be automatically who has, before the operative date of this section, been accepted as an option student in the district in which the option student is enrolled shall be eligible to continue attending the option school district as an option student as provided in section 38, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, and all deadlines imposed by section 79-3406 shall be waived if the sibling makes application for participation in the enrollment option program for the same school year as the option student first makes application or, if the sibling is not yet of school age for the school year for which the option student first made application, the sibling makes application for the first school year in which the sibling is of school age. Capacity limitations of the option district shall be waived as to siblings who meet the requirements for automatic acceptance as option students under this section.

Sec. 10. Section 79-3801, Revised Statutes Supplement, 1995, is amended to read:

79-3801. Sections 79-3801 to 79-3824 and sections 14, 16, 18, 19, and 22 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 11. Section 79-3802, Reissue Revised Statutes of Nebraska, is amended to read:

79-3802. (1) The Legislature hereby finds and declares that:

(a) Nebraska currently finances over seventy percent of the costs of operating its public school system from the property tax and other local sources while nationally only forty-three percent of the costs are supported by property taxes and other local sources;

(b) State support for the public school system has not kept pace with the increased costs of operating such system;

(c) Nebraska has a higher per capita property tax burden than most other states while the overall state and local per capita tax burden in the state is below the national average;

(d) The cost of operating the public school system is near the national average in per pupil cost as well as per capita spending;

(e) The overreliance on the property tax for the support of the public school system has resulted in great disparities in local property tax rates; and

(f) The overreliance on the property tax for the support of the public school system has created inequitable educational fiscal resources for students.

(2) It is the intent, purpose, and goal of the Legislature to create a system of financing the public school system which will:

(a) Provide state support from all sources of state funding for forty-five percent of the statewide aggregate general fund operating expenditures of school districts for Nebraska elementary and secondary public education;

(b) Reduce the reliance on the property tax for the support of the public school system;

(c) Broaden financial support for the public school system by dedicating a portion of the revenue received from the state income tax for support of the system;

(d) Keep pace with the increasing cost of operating the public school system;

(e) Assure each district a foundation support level for the operation of schools within each district taking into consideration the taxable wealth and other accessible resources of the district;

(f) Assure a greater level of equity of educational opportunities for students in all districts;

(g) Assure a greater level of equity in property tax rates for the support of the public school system; and

(h) Assure that there is a shift to sustainable revenue sources, other than the property tax, for the support of the public school system through the establishment of limits on the growth of general fund budgets of districts.

(3) The Legislature further finds and declares that all funds to be distributed pursuant to section 79-3813 shall be used specifically for the purpose of reducing property taxes in the district to which they are distributed.

Sec. 12. Section 79-3803, Revised Statutes Supplement, 1995, is amended to read:

79-3803. For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the transportation allowance.

(2) Adjusted valuation shall mean means the assessed valuation of taxable property of each district in the state adjusted pursuant to the adjustment factors described in section 79-3809. For the calculation of state aid to be paid in school year years 1994-95 and 1995-96, adjusted valuation means the adjusted valuation for the property tax year ending during the school year in which the aid based upon that value is to be paid. For calculation of state aid to be paid in school year 1996-97 and each school year thereafter, adjusted valuation shall mean means the adjusted valuation for the property tax year ending during the school year immediately preceding the school 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 79-3808, adjusted valuation shall 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;

(2) (3) Allocated income tax funds shall mean means the amount of assistance paid to a district pursuant to section 79-3804 or section 14 of this act;

(3) (4) Average daily membership shall mean means the average daily membership for grades kindergarten through twelve as provided in each district's annual financial report and annual statistical summary and, for the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, shall include includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(4) (5) Average daily membership tiers shall mean means groupings of districts by the number of students comprising a district's average daily membership in a specified grade range;

(5) (6) Base fiscal year shall mean means the first fiscal year in which all data sources reflect the reorganized district as a single district for the calculation of state aid;

(6) (7) Board shall mean means the school board or board of education of each school district;

(7) (8) Categorical federal funds shall mean means federal funds limited to a specific purpose by federal law, including, but not limited to, Chapter 1 funds, Chapter 2 funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, and Head Start funds;

~~(8)~~ (9) Consolidate shall mean means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 247, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996;

~~(9)~~ (10) Current school year shall mean means the current school fiscal year;

~~(10)~~ (11) Department shall mean means the State Department of Education;

~~(11)~~ (12) District shall mean means any Class I, II, III, IV, V, or VI district and, for purposes of sections 79-3801 to 79-3813 and sections 14, 16, 18, 19, and 22 of this act, the nonresident high school tuition fund of each county;

~~(12)~~ (13) Ensuing school year shall mean means the school year following the current school year;

~~(13)~~ (14) Equalization aid shall mean means the amount of assistance paid to a district pursuant to sections 79-3806 to 79-3813 and sections 18, 19, and 22 of this act;

~~(14)~~ (15) Fall membership shall mean means the total membership in grades kindergarten through grade twelve as reported on the fall school district membership report pursuant to section 79-451;

~~(15)~~ (16) Fiscal year shall mean means the state fiscal year which is the period from July 1 to the following June 30;

~~(16)~~ (17) Formula students shall mean (a) for purposes of state aid paid in school year 1993-94, the sum of average daily membership and tuitioned resident students from the most recently available complete data year and (b) for purposes of calculation of state aid for school year 1994-95 and each school year thereafter (i) means (a) for state aid certified pursuant to section 79-3813, the sum of fall membership from the school year immediately preceding the school year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the most recently available complete data year and the two school years prior to the most recently available complete data year, and tuitioned resident students from the school year immediately preceding the school year in which the aid is to be paid and (ii) (b) for final calculation of state aid pursuant to section 79-1369, the sum of average daily membership and tuitioned resident students from the school year immediately preceding the school year in which the aid was paid;

~~(17)~~ (18) Full-day kindergarten shall mean means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

~~(18)~~ (19) General fund budget of expenditures shall mean means the total budgeted expenditures 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 79-3814, the general fund budget of expenditures shall does not include any special grant funds, exclusive of local matching funds, received by a district subject to the approval of the department;

~~(19)~~ (20) General fund expenditures shall mean means all expenditures from the general fund;

~~(20)~~ (21) General fund operating expenditures shall mean means the total general fund expenditures minus categorical federal funds, tuition paid, transportation fees paid to other districts, adult education, summer school, school lunch pass-through, community services, redemption of the principal portion of general fund debt service, and transfers from other funds into the general fund;

~~(21)~~ (22) Income tax liability shall mean 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;

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

~~(23)~~ (24) Most recently available complete data year shall mean 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, and adjusted valuation data are available;

~~(24)~~ (25) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

~~(25)~~ (26) Reorganized district shall mean means any district involved in a consolidation and currently educating students following

consolidation;

(27) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 807, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, and includes special education transportation;

(25) (28) State aid shall mean means the amount of assistance paid to a district pursuant to sections 79-3804 and 79-3806 to 79-3813 and sections 14, 16, 18, 19, and 22 of this act;

(26) (29) State board shall mean means the State Board of Education;

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

(31) Transportation allowance means the lesser of: (a) The general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 372, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, in the most recently available complete data year, but not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures; or (b) the number of miles traveled in the most recently available complete data year by vehicles owned, leased, or contracted by the district for the purpose of regular route transportation multiplied by four hundred percent of the mileage rate established by the Department of Administrative Services pursuant to section 81-1176 as of January 1 of the most recently available complete data year added to in lieu of transportation expenditures pursuant to section 372, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, from the same data year. For school fiscal year 1996-97, the determination of the transportation allowance shall be based on the best available information previously collected by the State Department of Education and shall not include in lieu of transportation expenditures under section 372, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996; and

(28) (32) Tuitioned resident students shall mean resident students in grades means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency.

Sec. 13. Section 79-3804, Revised Statutes Supplement, 1995, is amended to read:

79-3804. (1) Beginning For state aid calculated for school fiscal years before school fiscal year 1996-97:

(1) Beginning in fiscal year 1990-91, twenty percent of the projected state income tax receipts shall be dedicated to the use and support of the public school system to provide support for the distribution of state aid to districts as determined in subsections (2) through (4) of this section and sections 79-3806 to 79-3813;

(2) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the second preceding tax year (a) twenty percent of the income tax liability of resident individuals for each Class I, II, III, IV, or V district in the state in which ten or more resident individual income tax returns were filed and (b) twenty percent of the income tax liability of resident individuals of all Class I, II, III, IV, and V districts in which less than ten resident individual income tax returns were filed, together with a list of such districts and funds;

(3) Using the data certified by the Tax Commissioner pursuant to subsection subdivision (2) of this section, the department shall calculate each district's allocated income tax funds as follows: (a) Each district identified in subdivision (2)(b) of this section shall be preliminarily allocated a share of the sum total income tax liability certified pursuant to such subdivision based on its pro rata share of the total adjusted valuation of all such districts; and (b) each district identified in subdivision (2)(a) of this section shall receive the following allocations of certified income tax liability:

(i) For each Class II, III, IV, or V district, the allocated income tax funds shall be the certified income tax liability;

(ii) For each Class I district which is not part of a Class VI district, 61.3793 percent of the certified income tax liability shall be allocated to such Class I district, with the remainder allocated to the nonresident high school tuition fund to which any portion of the Class I district belongs and to any high school district or districts with which any portion of the Class I district has affiliated. When the Class I district is a joint district or has partially affiliated with one or more high school districts, such remainder shall be allocated to the nonresident high school tuition fund of each county in which the Class I district has property and to

the affiliated high school district or districts based on each county's and each affiliated high school district's pro rata share of the Class I district's total adjusted valuation;

(iii) For each Class I district which is part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the certified income tax liability shall be allocated to such Class I district and the remainder shall be allocated to the Class VI district; and

(iv) For each Class I district which is part of a Class VI district which offers instruction in grades nine through twelve, 61.3793 percent of the certified income tax liability shall be allocated to such Class I district and the remainder shall be allocated to the Class VI district; and -

(4) The remainder of the amount dedicated pursuant to subsection subdivision (1) of this section, which includes income tax receipts from all other entities and individual income tax liability which cannot be reasonably identified as payments from residents of specific districts, shall be determined by the Tax Commissioner for the second preceding calendar year. The Legislature shall annually appropriate an amount equal to the total income tax liability allocable to districts based on the certification of the Tax Commissioner provided pursuant to subsection subdivision (2) of this section. Based on income tax projections provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Analyst, and the Department of Revenue, the Legislature shall annually appropriate an amount approximating the remainder of such dedicated income tax receipts for the ensuing school year. The State Treasurer shall transfer such appropriated amounts to the School District Income Tax Fund for distribution pursuant to this section and to the Tax Equity and Educational Opportunities Fund for distribution to districts pursuant to the distribution prescribed in sections 79-3806 to 79-3813 and section 18 of this act.

Sec. 14. For state aid calculated for school fiscal year 1996-97 and each school fiscal year thereafter:

(1) Of the funds dedicated to the use and support of public education, an amount 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 18 of this act and as allocated income tax funds as determined in this section and sections 657 to 668, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, and section 22 of this act;

(2) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the second preceding tax year (a) the income tax liability of resident individuals for each Class I, II, III, IV, or V district in the state in which ten or more resident individual income tax returns were filed and (b) the income tax liability of resident individuals of all Class I, II, III, IV, and V districts in which less than ten resident individual income tax returns were filed, together with a list of such districts and funds; and

(3) Using the data certified by the Tax Commissioner pursuant to subdivision (2) of this section, the department shall calculate the allocation percentage and each district's allocated income tax funds. The allocation percentage shall be an amount equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 minus the total amount paid for option students pursuant to section 18 of this act with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subdivision (2) of this section. Each district's allocated income tax funds shall be calculated as follows: (a) Each district identified in subdivision (2)(b) of this section shall be preliminarily allocated a share of the sum total income tax liability certified pursuant to such subdivision based on its pro rata share of the total adjusted valuation of all such districts and multiplied by the allocation percentage; and (b) each district identified in subdivision (2)(a) of this section shall receive the following allocations of certified income tax liability:

(i) For each Class II, III, IV, or V district, the allocated income tax funds shall be the certified income tax liability multiplied by the allocation percentage;

(ii) For each Class I district which is not part of a Class VI district, 61.3793 percent of the certified income tax liability multiplied by the allocation percentage shall be allocated to such Class I district, with the remainder of the certified income tax liability multiplied by the allocation percentage allocated to any high school district or districts with which any portion of the Class I district has affiliated. When the Class I district has partially affiliated with one or more high school districts, such remainder of the certified income tax liability multiplied by the allocation

percentage shall be allocated to the affiliated high school district or districts based on each affiliated high school district's pro rata share of the Class I district's total adjusted valuation:

(iii) For each Class I district which is part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the certified income tax liability multiplied by the allocation percentage shall be allocated to such Class I district and the remainder of the certified income tax liability multiplied by the allocation percentage shall be allocated to the Class VI district; and

(iv) For each Class I district which is part of a Class VI district which offers instruction in grades nine through twelve, 61.3793 percent of the certified income tax liability multiplied by the allocation percentage shall be allocated to such Class I district and the remainder of the certified income tax liability multiplied by the allocation percentage shall be allocated to the Class VI district.

Sec. 15. Section 79-3805, Reissue Revised Statutes of Nebraska, is amended to read:

79-3805. (1) Using For state aid calculated for school fiscal years before school fiscal year 1996-97:

(1) Using data from the annual financial reports and the annual statistical summary reports for the most recently available complete data year, the department shall calculate the tiered cost per student for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve for each district as described in subsections subdivisions (2) through (8) of this section; †

(2) Each district's general fund operating expenditures for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve shall be computed as follows: (a) The weighted average daily membership for kindergarten shall equal the average daily membership for kindergarten multiplied by five-tenths; (b) the weighted average daily membership for grades one through six, including full-day kindergarten, shall equal the average daily membership for such grades multiplied by one; (c) the weighted average daily membership for grades seven and eight shall equal the average daily membership for such grades multiplied by one and two-tenths; (d) the weighted average daily membership for grades nine through twelve shall equal the average daily membership for such grades multiplied by one and four-tenths; and (e) the total weighted average daily membership shall equal the sum of grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve weighted average daily membership values. Each district's general fund operating expenditures for each grade group shall be calculated by dividing that grade group's weighted average daily membership by the total weighted average daily membership in the district and multiplying the result by the district's total general fund operating expenditures; †

(3) Each district with general fund operating expenditures in grades one through six, including full-day kindergarten, shall be placed into a tier based on the following schedule.

Tier	Tier midpoint	Average daily membership range
1	50.50	.01 - 101.00
2	143.00	101.01 - 185.00
3	280.00	185.01 - 375.00
4	687.50	375.01 - 1,000.00
5	1,450.00	1,000.01 - 1,900.00
6	8,450.00	1,900.01 - 15,000.00
7	Median average daily membership of tier	15,000.01 and over

The average general fund operating expenditures per student for grades one through six, including full-day kindergarten, shall be calculated for each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing by the total average daily membership for such grades for all districts in the tier; †

(4) Each district with general fund operating expenditures in grades nine through twelve shall be placed in a tier based on the following schedule.

Tier	Tier midpoint	Average daily membership range
1	25.00	.01 - 50.00
2	62.50	50.01 - 75.00
3	87.50	75.01 - 100.00
4	125.00	100.01 - 150.00
5	200.00	150.01 - 250.00
6	375.00	250.01 - 500.00

7	750.00	500.01 - 1,000.00
8	5,500.00	1,000.01 - 10,000.00
9	Median average daily membership of tier	10,000.01 and over

The average general fund operating expenditures per student for grades nine through twelve shall be calculated for each tier by adding the total general fund operating expenditures for such grades for all districts in the tier and dividing such sum by the total average daily membership for such grades for all districts in the tier; \mp

(5) Tiered cost per student values shall be computed for grades one through six, including full-day kindergarten, for each district as follows:

(a) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are less than the tier midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are greater than the tier midpoint of tier 7 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 7; and

(c) For districts with average daily memberships for grades one through six, including full-day kindergarten, which fall on or between the tier midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose tier midpoints the districts' average daily memberships for such grades fall; \mp

(6) Tiered cost per student values shall be computed for grades nine through twelve for each district as follows:

(a) For districts with average daily memberships for grades nine through twelve which are less than the tier midpoint of tier 1 for such grades, the tiered cost per student shall equal the average general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades nine through twelve which are greater than the tier midpoint of tier 9 for such grades, the tiered cost per student for such grades shall equal the average general fund operating expenditures per student for tier 9; and

(c) For districts with average daily memberships for grades nine through twelve which fall on or between the tier midpoints of any two tiers, the tiered cost per student for such grades shall be calculated by means of a linear transition between the average general fund operating expenditures per student of the two tiers between whose tier midpoints the districts' average daily memberships for such grades fall; \mp

(7) The tiered cost per student for kindergarten shall be calculated by multiplying each district's tiered cost per student for grades one through six, including full-day kindergarten, by five-tenths; \mp

(8) The tiered cost per student for grades seven and eight shall be calculated as follows: For Class II, ~~Class III, Class IV, and Class III, IV, and V~~ districts, the tiered cost per student shall be the calculated mean of the district's tiered cost per student for grades one through six, including full-day kindergarten, and for grades nine through twelve; for Class I districts, the tiered cost per student shall be the district's tiered cost per student for grades one through six, including full-day kindergarten, multiplied by one and two-tenths; and for Class VI districts providing instruction in grades seven and eight as authorized by section 79-1109, the tiered cost per student shall be the district's tiered cost per student for grades nine through twelve multiplied by one and two-tenths and the result divided by one and four-tenths; \mp

(9) The tiered cost per student for nonresident high school tuition funds shall be the average general fund operating expenditures per student for grades nine through twelve for all districts included in subsection subdivision (4) of this section; and \mp

(10) In districts which receive payments pursuant to Public Law 81-874 20 U.S.C. 7701 et seq. and in which there are students enrolled who reside on Indian land, as defined under regulations of the United States Department of Education in effect on July 10, 1990, promulgated pursuant to Public Law 81-874 20 U.S.C. 7713, the tiered cost per student, for each grade level, calculated pursuant to subsections subdivisions (5) through (8) of this section, shall be increased by a factor equal to the result of multiplying the ratio of average daily attendance of students who reside on Indian land to the total average daily attendance of the district, as reported by the United States Department of Education in calculating the district's payment pursuant

to Public Law 81-874, 20 U.S.C. 7701 et seq. times twenty-five percent.

Sec. 16. For state aid calculated for school fiscal year 1996-97 and each school fiscal year thereafter:

(1) Using data from the annual financial reports and the annual statistical summary reports for the most recently available complete data year, the department shall calculate the adjusted tiered cost per student for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve for each district as described in subdivisions (2) through (8) of this section:

(2) Each district's adjusted general fund operating expenditures for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve shall be computed as follows:

(a) The weighted average daily membership for kindergarten shall equal the average daily membership for kindergarten multiplied by five-tenths;

(b) The weighted average daily membership for grades one through six, including full-day kindergarten, shall equal the average daily membership for such grades multiplied by one;

(c) The weighted average daily membership for grades seven and eight shall equal the average daily membership for such grades multiplied by one and two-tenths;

(d) The weighted average daily membership for grades nine through twelve shall equal the average daily membership for such grades multiplied by one and four-tenths; and

(e) The total weighted average daily membership shall equal the sum of grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve weighted average daily membership values.

Each district's adjusted general fund operating expenditures for each grade group shall be calculated by dividing that grade group's weighted average daily membership by the total weighted average daily membership in the district and multiplying the result by the district's total adjusted general fund operating expenditures;

(3) Each district with adjusted general fund operating expenditures in grades one through six, including full-day kindergarten, shall be placed into a tier based on the following schedule:

Tier	Tier Midpoint	Average Daily Membership Range
1	50.50	.01 - 101.00
2	143.00	101.01 - 185.00
3	280.00	185.01 - 375.00
4	687.50	375.01 - 1,000.00
5	1,450.00	1,000.01 - 1,900.00
6	8,450.00	1,900.01 - 15,000.00
7	Median average daily membership of tier	15,000.01 and over

The average adjusted general fund operating expenditures per student for grades one through six, including full-day kindergarten, shall be calculated for each tier by adding the total adjusted general fund operating expenditures for such grades for all districts in the tier and dividing by the total daily membership for such grades for all districts in the tier;

(4) Each district with adjusted general fund operating expenditures in grades nine through twelve shall be placed into a tier based on the following schedule:

Tier	Tier Midpoint	Average Daily Membership Range
1	25.00	.01 - 50.00
2	62.50	50.01 - 75.00
3	87.50	75.01 - 100.00
4	125.00	100.01 - 150.00
5	200.00	150.01 - 250.00
6	375.00	250.01 - 500.00
7	750.00	500.01 - 1,000.00
8	5,500.00	1,000.01 - 10,000.00
9	Median average daily membership of tier	10,000.01 and over

The average adjusted general fund operating expenditures per student for grades nine through twelve shall be calculated for each tier by adding the total adjusted general fund operating expenditures for such grades for all districts in the tier and dividing such sum by the total average daily membership for such grades for all districts in the tier;

(5) Adjusted tiered cost per student values shall be computed for grades one through six, including full-day kindergarten, for each district as

follows:

(a) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are less than the tier midpoint of tier 1 for such grades, the adjusted tiered cost per student shall equal the average adjusted general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades one through six, including full-day kindergarten, which are greater than the tier midpoint of tier 7 for such grades, the adjusted tiered cost per student for such grades shall equal the average adjusted general fund operating expenditures per student for tier 7; and

(c) For districts with average daily memberships for grades one through six, including full-day kindergarten, which fall on or between the tier midpoints of any two tiers, the adjusted tiered cost per student for such grades shall be calculated by means of a linear transition between the average adjusted general fund operating expenditures per student of the two tiers between whose tier midpoints the districts' average daily memberships for such grades fall;

(6) Adjusted tiered cost per student values shall be computed for grades nine through twelve for each district as follows:

(a) For districts with average daily memberships for grades nine through twelve which are less than the tier midpoint of tier 1 for such grades, the adjusted tiered cost per student shall equal the average adjusted general fund operating expenditures per student for tier 1;

(b) For districts with average daily memberships for grades nine through twelve which are greater than the tier midpoint of tier 9 for such grades, the adjusted tiered cost per student for such grades shall equal the average adjusted general fund operating expenditures per student for tier 9; and

(c) For districts with average daily memberships for grades nine through twelve which fall on or between the tier midpoints of any two tiers, the adjusted tiered cost per student for such grades shall be calculated by means of a linear transition between the average adjusted general fund operating expenditures per student of the two tiers between whose tier midpoints the districts' average daily memberships for such grades fall;

(7) The adjusted tiered cost per student for kindergarten shall be calculated by multiplying each district's adjusted tiered cost per student for grades one through six, including full-day kindergarten, by five-tenths;

(8) The adjusted tiered cost per student for grades seven and eight shall be calculated as follows:

(a) For Class II, III, IV, and V districts, the adjusted tiered cost per student shall be the calculated mean of the district's adjusted tiered cost per student for grades one through six, including full-day kindergarten, and for grades nine through twelve;

(b) For Class I districts, the adjusted tiered cost per student shall be the district's adjusted tiered cost per student for grades one through six, including full-day kindergarten, multiplied by one and two-tenths; and

(c) For Class VI districts providing instruction in grades seven and eight as authorized by section 160, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, the adjusted tiered cost per student shall be the district's adjusted tiered cost per student for grades nine through twelve multiplied by one and two-tenths and the result divided by one and four-tenths; and

(9) In districts which receive payments pursuant to 20 U.S.C. 7701 et seq. and in which there are students enrolled who reside on Indian land, as defined under regulations of the United States Department of Education promulgated pursuant to 20 U.S.C. 7713, the adjusted tiered cost per student, for each grade level, calculated pursuant to subdivisions (5) through (8) of this section, shall be increased by a factor equal to the result of multiplying the ratio of average daily attendance of students who reside on Indian land to the total average daily attendance of the district, as reported by the United States Department of Education in calculating the district's payment pursuant to 20 U.S.C. 7701 et seq. times twenty-five percent.

Sec. 17. Section 79-3806, Revised Statutes Supplement, 1995, is amended to read:

79-3806. (1) Except as provided in section 79-3806.01 for reorganized districts which become reorganized districts on or before June 30, 2005, and except as provided in subsections (2) through (7) (6) of this section and sections 18 and 19 of this act, each district shall receive equalization aid in the amount that the total formula need of each district, as determined pursuant to subsections (5) and (6) of this section and sections 79-3805 and 79-3807 and sections 16 and 22 of this act, exceeds its total

formula resources as determined pursuant to subsections (5) and (6) of this section and sections 79-3808 to 79-3811.

(2) A district shall not receive state aid for each of the school years 1992-93, 1993-94, and 1994-95 which is less than one hundred percent of the amount of aid received pursuant to the School Foundation and Equalization Act for school year 1989-90.

(3) No district shall receive equalization aid in an amount such that total state aid received would result in such district having a general fund tax levy of less than sixty percent of the local effort rate as computed pursuant to section 79-3808. The calculation shall be based on valuation, state aid, and levy data from the current school year, and:

(a) For the calculation of state aid in school fiscal year 1996-97 and each school fiscal year thereafter, for districts which have an adjusted valuation per formula student of less than forty percent of the statewide adjusted valuation divided by the number of formula students in the state, the calculation shall also take into consideration an amount equal to sixty percent of the local effort rate multiplied by the difference between the district's adjusted valuation per formula student and forty percent of the statewide adjusted valuation per formula student. Each district which meets the qualifications of this subdivision shall certify to the department, by the date provided in section 13-508, the general fund tax request for the year in which the aid is to be paid. If such general fund tax request is not equal to at least ninety percent of the local effort rate multiplied by the adjusted valuation, the district shall not qualify for the provisions of this subdivision in the following year; and

(b) If a district identified in subdivision (a) of this subsection had actual general fund operating expenditures of more than fifteen percent above the target budget level established pursuant to section 672, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, in the most recently available complete data year, subdivision (a) of this subsection shall not apply, and, for the calculation of state aid in school year 1992-93 and each school year thereafter, shall also take into consideration the amounts of nonresident high school tuition certified by the department pursuant to section 79-4-102 for the current school year and for the school year in which such state aid is to be paid.

(4) For the calculation of state aid to be paid in school year 1993-94 and each school year thereafter in Class I districts which have more than one general fund levy in the current year, the department shall base the calculation on a derived general fund levy for the district computed by adding the general fund property tax yield for all portions of the district and dividing the result by the total assessed valuation of the district in hundreds.

(5) For school districts or portions thereof in Class VI school systems as defined in section ~~79-101-01~~ 249, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, equalization aid to be paid in school year 1995-96 and each school year thereafter shall be computed as follows:

(a) For Class I districts, the total formula need and total formula resources shall be allocated to each Class VI school system based upon the proportion of such Class I district's adjusted valuation contained in each Class VI school system;

(b) For the Class VI district and each Class I district or portion thereof allocated pursuant to subdivision (a) of this subsection, the total formula resources shall be subtracted from the total formula need, except that the difference shall never be less than zero;

(c) Each district's total formula need, total formula resources, and difference calculated pursuant to subdivision (b) of this subsection shall be added to arrive at system formula need, system formula resources, and system total difference;

(d) System equalization aid shall equal the amount by which the system formula need exceeds system formula resources; and

(e) Each district's share of the system equalization aid shall be calculated by dividing the district's difference calculated pursuant to subdivision (b) of this subsection by the system total difference and multiplying the result by the system equalization aid.

(6) For school districts in affiliated school systems as defined in section ~~79-101-01~~ 249, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, equalization aid to be paid in school year 1992-93 and each school year thereafter shall be computed as follows:

(a) For affiliated Class I districts, the total formula need and total formula resources shall be allocated to each affiliated school system based upon the proportion of such Class I district's adjusted valuation

contained in each system with which it is affiliated;

(b) For the high school district and each Class I district or portion thereof allocated pursuant to subdivision (a) of this subsection, the total formula resources shall be subtracted from the total formula need, except that the difference shall never be less than zero;

(c) Each district's total formula need, total formula resources, and difference calculated pursuant to subdivision (b) of this subsection shall be added to arrive at system formula need, system formula resources, and system total difference;

(d) System equalization aid shall equal the amount by which the system formula need exceeds system formula resources; and

(e) Each district's share of the system equalization aid shall be calculated by dividing the district's difference calculated pursuant to subdivision (b) of this subsection by the system total difference and multiplying the result by the system equalization aid.

(7) Beginning with school year 1994-95, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 were actually enrolled in the current data year shall receive additional state aid for each such student in an amount equal to the statewide average tiered cost per student or the option school district's tiered cost per student, whichever is less.

(8) For school years 1992-93 and 1993-94, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 were actually enrolled in the most recently available complete data year shall receive additional state aid computed by first multiplying the number of such option students, by grade group, by the district's tiered cost per student for each grade group and then summing the results for all grade groups in the district. The district shall receive additional state aid equal to the amount by which this calculation exceeds the district's actual receipts pursuant to section 79-3415 in the most recently available complete data year.

Sec. 18. (1) For school years 1994-95 and 1995-96, a district which does not generate equalization aid pursuant to subsection (1) of section 657, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, and in which option students as defined in section 37, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, were actually enrolled in the current data year shall receive additional state aid for each such student in an amount equal to the statewide average tiered cost per student or the option school district's tiered cost per student, whichever is less.

(2) For school year 1996-97 and each school year thereafter, a district in which option students as defined in section 37, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, were actually enrolled in the school year immediately preceding the school year in which the aid is to be paid shall receive net option funding. For purposes of this section, net option funding is the sum of the products of the net number of option students in each grade range multiplied by the lesser of the statewide average adjusted tiered cost per student or the option school district's adjusted tier cost per student for the corresponding grade range. Net number of option students is the number of option students actually enrolled in a grade range in the current data year minus the number of students residing in the district but enrolled in another district in the same grade range in the current data year as option students as defined in section 37, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996. A district's net option funding shall be zero if the calculation produces a negative result. For school fiscal year 1996-97, the determination of the net number of option students shall be based on the best available information previously collected by the State Department of Education. For school fiscal years 1997-98 and beyond, the determination will be based on the number of option students enrolled in the district or enrolled in another district as of the day of the fall membership count pursuant to section 281, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, for the school year immediately preceding the school year in which the aid is to be paid. Payments made under this section shall be made from the funds to be disbursed under section 14 of this act.

District formula resources shall include payments for option students calculated under this section.

Sec. 19. (1) To encourage consolidation of school districts, incentives shall be paid to reorganized districts in certain size ranges for a three-year period to reward the reorganized districts for their efforts to increase efficiency in the delivery of educational services. This section shall only apply to consolidations when the order to change boundaries issued pursuant to subsection (1) of section 228, Legislative Bill 900, Ninety-fourth

Legislature, Second Session, 1996, takes effect after May 31, 1996, and before August 2, 2001.

(2) To qualify for incentive payments under this section, the consolidation must be approved for incentive payments by the State Committee for the Reorganization of School Districts. When reviewing a petition for the boundary change pursuant to section 79-402, the state committee shall issue a preliminary approval or disapproval for incentive payments along with a notice specifying application procedures. Affected school districts shall file an application for incentive payments with the state committee within thirty days following the issuance of the boundary change order pursuant to subsection (1) of section 228, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996. The state committee shall, within thirty days, approve or disapprove incentive payments. If there are no material changes in the reorganization plan between a preliminary approval and application for incentive payments following the boundary change order, the state committee shall approve the incentive payments. If a preliminary disapproval was issued or if there was a material change in the reorganization plan prior to the issuance of the boundary change order, the state committee shall reconsider the approval or disapproval of incentive payments. The state committee shall make the determination regarding whether or not any changes in a reorganization plan are material for the purpose of approving or disapproving incentive payments.

(3) For incentive payments to be approved by the state committee, a reorganization study, including efficiency, demographic, curriculum, facility, financial and community components, must have been completed. If a study containing such elements was completed and the reorganization plan will most likely result in more efficiency in the delivery of educational services or greater educational opportunities, the state committee may approve incentive payments for the affected districts.

(4) Incentive payments shall be based on the number of students moving from one size range to a lower cost size range based on the average daily membership in each affected district in the school year immediately preceding the first year the boundary change is in effect and the average daily membership each affected district would have had following the boundary change if it had occurred in the school year immediately preceding the first year the boundary change is in effect. The reorganized school districts existing after the qualified boundary change shall receive incentive payments based on the following criteria for each student meeting the criteria:

For grades one through six, including full-day kindergarten:

<u>Average daily membership range before consolidation</u>	<u>Average daily membership range with boundary change</u>	<u>Incentive payment per student who moves from the average daily membership range before consolidation to the average daily membership range with boundary change</u>
.01 - 101.00	101.01 - 185.00	\$590
.01 - 101.00	185.01 - 375.00	890
.01 - 101.00	375.01 - 1,000.00	1,190
.01 - 101.00	1,000.01 - 1,900.00	1,320
101.01 - 185.00	185.01 - 375.00	300
101.01 - 185.00	375.01 - 1,000.00	590
101.01 - 185.00	1,000.01 - 1,900.00	730
185.01 - 375.00	375.01 - 1,000.00	300
185.01 - 375.00	1,000.01 - 1,900.00	430
375.01 - 1,000.00	1,000.01 - 1,900.00	130

For grades seven and eight:

<u>Average daily membership range before consolidation</u>	<u>Average daily membership range with boundary change</u>	<u>Incentive payment per student who moves from the average daily membership range before consolidation to the average daily membership range</u>

		<u>with boundary change</u>
<u>.01 - 31.00</u>	<u>31.01 - 57.00</u>	<u>\$710</u>
<u>.01 - 31.00</u>	<u>57.01 - 115.00</u>	<u>1,070</u>
<u>.01 - 31.00</u>	<u>115.01 - 308.00</u>	<u>1,430</u>
<u>.01 - 31.00</u>	<u>308.01 - 585.00</u>	<u>1,590</u>
<u>31.01 - 57.00</u>	<u>57.01 - 115.00</u>	<u>360</u>
<u>31.01 - 57.00</u>	<u>115.01 - 308.00</u>	<u>710</u>
<u>31.01 - 57.00</u>	<u>308.01 - 585.00</u>	<u>870</u>
<u>57.01 - 115.00</u>	<u>115.01 - 308.00</u>	<u>350</u>
<u>57.01 - 115.00</u>	<u>308.01 - 585.00</u>	<u>510</u>
<u>115.01 - 308.00</u>	<u>308.01 - 585.00</u>	<u>160</u>

For grades nine through twelve:

<u>Average daily membership range before consolidation</u>	<u>Average daily membership range with boundary change</u>	<u>Incentive payment per student who moves from the average daily membership range before consolidation to the average daily membership range with boundary change</u>
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<u>.01 - 50.00</u>	<u>50.01 - 75.00</u>	<u>\$1,640</u>
<u>.01 - 50.00</u>	<u>75.01 - 100.00</u>	<u>2,550</u>
<u>.01 - 50.00</u>	<u>100.01 - 150.00</u>	<u>2,924</u>
<u>.01 - 50.00</u>	<u>150.01 - 250.00</u>	<u>3,180</u>
<u>.01 - 50.00</u>	<u>250.01 - 500.00</u>	<u>3,450</u>
<u>.01 - 50.00</u>	<u>500.01 - 1,000.00</u>	<u>3,750</u>
<u>50.01 - 75.00</u>	<u>75.01 - 100.00</u>	<u>910</u>
<u>50.01 - 75.00</u>	<u>100.01 - 150.00</u>	<u>1,280</u>
<u>50.01 - 75.00</u>	<u>150.01 - 250.00</u>	<u>1,540</u>
<u>50.01 - 75.00</u>	<u>250.01 - 500.00</u>	<u>1,810</u>
<u>50.01 - 75.00</u>	<u>500.01 - 1,000.00</u>	<u>2,110</u>
<u>75.01 - 100.00</u>	<u>100.01 - 150.00</u>	<u>380</u>
<u>75.01 - 100.00</u>	<u>150.01 - 250.00</u>	<u>630</u>
<u>75.01 - 100.00</u>	<u>250.01 - 500.00</u>	<u>900</u>
<u>75.01 - 100.00</u>	<u>500.01 - 1,000.00</u>	<u>1,200</u>
<u>100.01 - 150.00</u>	<u>150.01 - 250.00</u>	<u>260</u>
<u>100.01 - 150.00</u>	<u>250.01 - 500.00</u>	<u>530</u>
<u>100.01 - 150.00</u>	<u>500.01 - 1,000.00</u>	<u>830</u>
<u>150.01 - 250.00</u>	<u>250.01 - 500.00</u>	<u>270</u>
<u>150.01 - 250.00</u>	<u>500.01 - 1,000.00</u>	<u>570</u>
<u>250.01 - 500.00</u>	<u>500.01 - 1,000.00</u>	<u>300</u>

(5) Incentive payments shall be paid from the Tax Equity and Educational Opportunities Fund. The payments shall be subtracted from the appropriation prior to any calculations affecting the distribution of equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act.

(6) The payments shall be included in the distribution of state aid for each of the first three consecutive school years beginning with the base fiscal year. If the total amount of incentive payments to school districts for that school year exceeds one percent of the appropriation to the Tax Equity and Educational Opportunities Fund, the incentive payments shall be reduced proportionately so that the total amount of incentive payments to school districts equals one percent of the appropriation to the Tax Equity and Educational Opportunities Fund. The payments shall not be included in district formula resources as calculated under section 79-3811. No incentive payments shall be made pursuant to this section after July 1, 2006.

Sec. 20. Section 79-3806.01, Revised Statutes Supplement, 1995, is amended to read:

79-3806.01. When in addition to any funding calculated under section 19 of this act, when two or more districts consolidate into one or more reorganized districts:

(1) In the base fiscal year, the reorganized district shall receive as state aid one hundred percent of the state aid or portion thereof calculated for the individual districts involved in the reorganization in the fiscal year prior to the base fiscal year, or the total amount the reorganized district would receive under section 79-3806 and sections 14 and 18 of this act, whichever is greater;

(2) In the first fiscal year after the base fiscal year, the reorganized district shall receive as state aid sixty-six percent of the state aid or portion thereof calculated for the individual districts in the fiscal year prior to the base fiscal year, or the total amount the reorganized district would receive under section 79-3806 and sections 14 and 18 of this act, whichever is greater;

(3) In the second fiscal year after the base fiscal year, the reorganized district shall receive as state aid thirty-three percent of the state aid or portion thereof calculated for the individual districts in the fiscal year prior to the base fiscal year, or the total amount the reorganized district would receive under section 79-3806 and sections 14 and 18 of this act, whichever is greater; and

(4) In the third fiscal year after the base fiscal year and in each fiscal year thereafter, the reorganized district shall receive the amount of state aid to which it is entitled under section 79-3806 and sections 14 and 18 of this act.

If the total amount of payments under this section to school districts for a school year exceeds the total amount appropriated under subsection (2) of section 79-3806 for fiscal year 1994-95, the incentive payment shall be reduced proportionately so that the total amount of aid under this section does not exceed the amount appropriated under subsection (2) of section 79-3806 for fiscal year 1994-95.

The provisions of this section shall not affect any calculations for equalization aid distributed prior to fiscal year 1995-96.

Sec. 21. Section 79-3807, Reissue Revised Statutes of Nebraska, is amended to read:

79-3807. (1) Except as provided in subsections (2) and (3) of this section for the calculation of state aid to be paid for school fiscal years before school fiscal year 1996-97, using each district's tiered cost per student as determined in section 79-3805, total formula unadjusted need for each district shall be computed by first multiplying the number of formula students in each grade grouping of kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by each such district's corresponding tiered cost per student in each grade grouping. The sum of such products shall be the district's total formula need.

(2) For calculations of state aid to be paid in school year 1992-93 and school year 1993-94, in school districts which certify to the department no later than June 15 of the current year that such district's average daily membership for the current year exceeds the average daily membership from the most recently available complete data year by more than twenty-five students and by more than one percent of the district's average daily membership from the most recently available complete data year, the total formula need computed pursuant to subsection (1) of this section shall be computed on the basis of formula students from the current year rather than the most recently available complete data year, except that any school district which so certifies shall not receive less state aid than such school district would have received if no adjustment in state aid had been made pursuant to this subsection. Average daily membership increases and formula student increases attributable to school district reorganization shall not be included in the calculations made pursuant to this subsection.

(3) For calculation of state aid to be paid in school year 1993-94 and each school year thereafter, total formula need for the nonresident high school tuition fund of each county shall equal the total nonresident high school tuition charge for the county for each such school year as certified by the department pursuant to section 79-4,102.

Sec. 22. For the calculation of state aid to be paid for school fiscal year 1996-97 and each school fiscal year thereafter, using each district's adjusted tiered cost per student as calculated pursuant to section 16 of this act, adjusted need for each district shall be computed by first multiplying the number of formula students in each grade grouping of kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by each such district's corresponding adjusted tiered cost per student in each grade grouping. The sum of such products and the district's transportation allowance shall be the district's total formula need.

Sec. 23. Section 79-3808, Reissue Revised Statutes of Nebraska, is amended to read:

79-3808. (1) District formula resources shall include local effort rate yield which shall be computed as prescribed in this section.

(2) The local effort rate shall be determined by the department. The local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in districts receiving equalization

aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such districts when added to state aid appropriated by the Legislature for the ensuing school year and other actual receipts of districts described in section 79-3811. The local effort rate for Class I districts, Class VI districts, and county nonresident high school tuition funds shall be based on the following schedule.

District	Grades for which legally responsible	Percentage of local effort rate
Class I	kindergarten through six	44.8276
Class I	kindergarten through eight	61.3793
Class VI	seven through twelve	55.1724
Class VI	nine through twelve	38.6207
County non-resident high school tuition funds	nine through twelve	38.6207

(3) For Class I, II, III, IV, V, and VI districts and, except as provided in subsection (5) of this section, for the nonresident high school tuition fund of each county, the local effort rate yield shall be determined by multiplying each district's total adjusted valuation by the local effort rate.

(4)(a) For the calculation of state aid to be paid in school years 1992-93 and 1993-94, in addition to the local effort rate yield calculated pursuant to subsection (3) of this section, district formula resources for each Class II, III, IV, V, and VI district shall include 38.6207 percent of the local effort rate multiplied by the sum of: (i) The assessed valuation from the current school year of Class I districts or portions thereof that in the current school year are not part of a Class VI district and are not affiliated but will be affiliated or merged with the Class II, III, IV, V, or VI district for the school year in which the calculated state aid is to be paid; and (ii) the assessed valuation from the most recently available complete data year of Class I districts or portions thereof that in the most recently available complete data year were not part of a Class VI district and were not affiliated but were affiliated or merged with the Class II, III, IV, V, or VI district for the current school year.

(b) For the calculation of state aid to be paid in school year 1994-95 and each school year thereafter, in addition to the local effort rate yield calculated pursuant to subsection (3) of this section, district formula resources for each Class II, III, IV, and V district shall include 38.6207 percent of the local effort rate multiplied by the adjusted valuation for the year in which the aid is to be paid as certified pursuant to section 79-3809 of Class I districts or portions thereof that are affiliated with such district for such year.

(5) For the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, local effort rate yield for the nonresident high school tuition fund of each county shall be determined by multiplying 38.6207 percent of the local effort rate by the assessed valuation from Class I districts or portions thereof in such county which have not affiliated with any high school district and which are not part of a Class VI district for the school year in which the aid is to be paid.

Sec. 24. Section 79-3809, Revised Statutes Supplement, 1995, is amended to read:

79-3809. (1) On or before July 1 for 1994 and on or before June 1 for each year thereafter of each year, the Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation for the current calendar year of each district for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (2) of this section. The Property Tax Administrator shall also notify each school district of its adjusted valuation for the current calendar year by class on or before July 1 of each year. Establishment of the adjusted valuation shall be based on assessment practices established by rule and regulation adopted and promulgated by the Property Tax Administrator. The assessment practices may include, but not be limited to, the appraisal techniques listed in section 77-112.

(2) For purposes of this section, state aid value shall mean:

(a) For real property other than agricultural land, one hundred percent of market value;

(b) For agricultural land, eighty percent of market value as

provided in sections 77-1359 to 77-1367 and 77-1371;

(c) For personal property other than motor vehicles, the net book value as defined in section 77-120; and

(d) For motor vehicles, the value established pursuant to section 77-1239.

(3) For 1995 and each year thereafter, prior to July August 1 any school district may file with the Property Tax Administrator written objections to the adjusted valuations prepared by the Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Property Tax Administrator shall fix a time for a hearing. Either party shall be permitted to introduce any evidence in reference thereto. Prior to December 1, the Property Tax Administrator shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Property Tax Administrator shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Property Tax Administrator may be appealed to the Tax Equalization and Review Commission.

~~(4) For 1994, prior to August 1 any school district may file with the Department of Revenue written objections to the adjusted valuations prepared by the department, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Tax Commissioner shall fix a time for a hearing to be held prior to August 15. Either party shall be permitted to introduce any evidence in reference thereto. Prior to September 1, the Tax Commissioner shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Tax Commissioner shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Tax Commissioner may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.~~

~~(4) (5) The Property Tax Administrator shall, on the date the adjusted valuations are certified to the State Department of Education under subsection (1) of this section, cause to be published notice of such adjusted valuations in a newspaper published or of general circulation in each county in Nebraska.~~

~~(5) (6) No injunction shall be granted restraining the distribution of state aid based upon the adjusted valuations pursuant to this section.~~

Sec. 25. Section 79-3810, Reissue Revised Statutes of Nebraska, is amended to read:

79-3810. District formula resources shall include allocated income tax funds determined for each such district pursuant to the provisions of section 79-3804 or section 14 of this act.

Sec. 26. Section 79-3811, Reissue Revised Statutes of Nebraska, is amended to read:

79-3811. District formula resources shall include includes other actual receipts as determined by the department for the most recently available complete data year, except that receipts from the Community Improvements Cash Fund and receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included. Other actual receipts shall include include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Nonresident high school tuition receipts, except that for the calculation of state aid to be paid in school years 1992-93, 1993-94, and 1994-95, other actual receipts shall include the district's total nonresident high school tuition charge for each such school year as certified by the department pursuant to section 79-4,102;
- (4) Tuition receipts from individuals, other districts, or any other source except those derived from adult education;
- (5) Transportation receipts;
- (6) Interest on investments;
- (7) Other miscellaneous local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (8) Special education receipts;
- (9) Receipts from the state for wards of the court and wards of the state;
- (10) All receipts from the temporary school fund;
- (11) Receipts from the Insurance Tax Fund, except that for the calculation of state aid to be paid in school year 1996-97 and each school

year thereafter, other actual receipts does not include Insurance Tax Fund receipts;

- (12) Pro rata motor vehicle license fee receipts;
- (13) Help Education Lead to Prosperity Act funds;
- (14) Amounts provided by the state on behalf of the district as reimbursement for repayment of personal property taxes by centrally assessed pipeline companies pursuant to section 77-3617;
- (15) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-4,118;
- (16) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
- (17) All other noncategorical federal receipts;
- (18) All receipts pursuant to Chapter 79, article 34; and
- (19) Receipts under the federal Medicare Catastrophic Coverage Act of 1988 as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the district would have otherwise received pursuant to the Special Education Act.

Sec. 27. Section 79-3811.01, Revised Statutes Supplement, 1995, is amended to read:

79-3811.01. (1) If (a) federal legislation is enacted by ~~October 1, 1995~~ November 1, 1996, providing that payments under section 3(d)(2)(B) of Public Law 81-874 are not required to be refunded for school year 1990-91 and (b) federal legislation is enacted with an effective date not later than ~~October 1, 1995~~ November 1, 1996, (i) providing that funds need not be restored or reimbursed to affected local education agencies from state aid distributions for school year 1990-91 and deeming Nebraska not certified for school years 1991-92 through 1994-95 or (ii) deeming Nebraska to be certified for school year 1990-91 and deeming Nebraska not certified for school years 1991-92 through 1994-95, then ~~on or about October 15, 1995~~, the department shall make payments, from funds separately appropriated for such purpose, to school districts which in school year 1990-91 received less state aid under the Tax Equity and Educational Opportunities Support Act than they would have received if no federal impact aid entitlements had been included in the calculation of district formula resources pursuant to section 79-3811. Each such school district shall receive the amount by which its state aid for school year 1990-91 was less than it would have been if no impact aid entitlements had been considered in the calculation of its state aid. No payments shall be made under this section to any school district which receives federal impact aid entitlements under section 3(d)(2)(B) of Public Law 81-874 or any similar provision of the 1994 reenactment of the impact aid statutes. Payments made pursuant to this section shall not be considered as district formula resources for purposes of calculation of state aid under the Tax Equity and Educational Opportunities Support Act.

(2) If no funds are separately appropriated by the Legislature under subsection (1) of this section, since funds for the school year 1990-91 may not be otherwise subject to adjustment under Chapter 79, the department shall set aside from the amount appropriated to the Tax Equity and Educational Opportunities Fund for school year 1995-96 the amounts specified in such subsection and (a) if the federal legislation referred to in such subsection is enacted as provided ~~therein~~ in such subsection, the department shall pay from the funds set aside the amounts specified in such subsection to the school districts specified in such subsection ~~on or about October 15, 1995~~, or (b) if the federal legislation referred to in such subsection is not enacted, the funds set aside pursuant to this subsection shall be held by the department until it is finally determined, by appeal or otherwise, whether Nebraska is certified to take into consideration impact aid entitlements under Public Law 81-874 for state aid distribution for school year 1990-91. If Nebraska is so certified, such funds shall be reappropriated ~~to the Tax Equity and Educational Opportunities Fund~~ for distribution pursuant to the distribution formula in the Tax Equity and Educational Opportunities Support Act. If Nebraska is not so certified, the department shall pay from the funds set aside the amounts specified in subsection (1) of this section to the school districts specified in such subsection within sixty days after the final determination. Payments made pursuant to this section shall not be considered as district formula resources for purposes of calculation of state aid under the act.

Sec. 28. Section 79-3811.02, Revised Statutes Supplement, 1995, is amended to read:

79-3811.02. Nothing in the Tax Equity and Educational Opportunities Support Act shall be construed as altering, amending, or changing in any manner the duties or obligations of the department under section 79-1369, ~~nor shall and~~ the provisions of the act ~~shall not~~ be construed as relieving the

department of its obligation to make appropriate aid allocation adjustments following a final determination of the amount of funds due to any school district under the provisions of or through the operation of the act.

Sec. 29. Section 79-3812, Revised Statutes Supplement, 1995, is amended to read:

79-3812. There are hereby created the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund, each of which shall consist of such sums as the Legislature may appropriate and be administered by the state board. The For school fiscal years prior to school fiscal year 1996-97, the School District Income Tax Fund shall receive resident individual income tax appropriations made by the Legislature to make payments to districts of allocable income tax funds. The Tax Equity and Educational Opportunities Fund shall receive dedicated income tax appropriations and appropriations made by the Legislature to fund sections 79-3806 to 79-3811 and sections 18 and 19 of this act. For school fiscal years 1996-97 and each school year thereafter, appropriations made by the Legislature to make payments to districts of allocable income tax funds shall also be credited to the Tax Equity and Educational Opportunities Fund. Any money remaining in the School District Income Tax Fund on January 1, 1998, shall be transferred to the Tax Equity and Educational Opportunities Fund on such date. Any money in such funds 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. 30. Section 79-3813, Revised Statutes Supplement, 1995, is amended to read:

79-3813. On or before July 15 for 1994 and on or before July 1 of each year thereafter April 1 of each year, the department shall determine the amounts to be distributed to each district pursuant to sections 77-913 and 79-3804 and 79-3806 to 79-3811 and sections 14, 16, 18, 19, and 22 of this act based on estimated funding levels and shall certify issue a projection of the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each district. Such On or before July 1 of each year the department shall determine the amounts to be distributed to each district pursuant to such sections based on the appropriation to the Tax Equity and Educational Opportunities Fund and the allocation from the Insurance Tax Fund and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each district. The certified amounts shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each year and ending in June of the following year, pursuant to warrants drawn against the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund. Such certified state aid amounts shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-3815.

Sec. 31. Section 79-3817, Reissue Revised Statutes of Nebraska, is amended to read:

79-3817. On or before July 1 of each year, the department shall determine and certify to each district an applicable allowable growth percentage carried out at least eight decimal places for each district as follows:

(1) For school fiscal years before school fiscal year 1996-97, each district the department shall determine a target budget level for each district by multiplying the average daily membership for the most recently available complete data year of each district in grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by the unadjusted tiered cost per student as determined in section 79-3805 for each grade grouping. The sum of such products shall be each district's target budget level. For school year 1996-97 and each school year thereafter, the department shall determine a target budget level for each district by multiplying the average daily membership for the most recently available complete data year of each district in grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by the adjusted tiered cost per student as calculated under section 16 of this act for each grade grouping. The sum of such products and the district's transportation allowance shall be each district's target budget level;

(2) The department shall establish a target budget level range of general fund operating expenditure levels for each district which shall begin at twenty percent less than the target budget level and end at the target budget level. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section 79-3816, and

the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in section 79-3816 such that the lower end of the range shall be assigned the maximum allowable growth rate and the higher end of the range shall be assigned the basic allowable growth rate; and

(3) Each district's actual general fund operating expenditures shall be compared to its target budget level along the range described in subdivision (2) of this section to arrive at an applicable allowable growth rate as follows: If the district's actual general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section 79-3816. If the district's actual general fund operating expenditures are greater than the higher end of the range, the district's allowable growth rate shall be the basic growth rate identified in section 79-3816. If the district's actual general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear transition calculation between the end points of the range to arrive at the applicable allowable growth rate for the district.

Sec. 32. Section 79-3819, Revised Statutes Supplement, 1995, is amended to read:

79-3819. (1) A district may exceed its applicable allowable growth rate by a specific dollar amount in the situations described in this section-

(2) ~~A if the~~ district demonstrates to the satisfaction of the state board that a new program is required by state or federal law or an existing program mandated by state or federal law has been expanded as a result of changes in state or federal law. For purposes of this subsection, a final order of a court, the State Board of Equalization and Assessment, the Tax Commissioner, the Tax Equalization and Review Commission, or the Property Tax Administrator from which no appeal is taken which requires reimbursement by a district of property taxes to a taxpayer shall be considered a new program required by state or federal law but shall not be included as part of the general fund budget of expenditures for purposes of section 79-3814.

~~(3) The~~ (2) ~~A district may exceed its applicable allowable growth rate by a specific dollar amount if the district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The state board shall approve, deny, or modify the projected increases.~~

<u>Average daily membership of membership of district</u>	<u>Projected increase of formula student of formula students by percentage</u>
0 - 50	10
50.01 - 250	5
250.01 - 1,000	3
1,000.01 and over	1

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1 of each year, the department shall make needed revisions in the applicable allowable growth rate of districts which have been allowed additional growth pursuant to this subsection to reflect the actual formula students of such district and shall certify such revisions to each district.

(4) ~~Construction~~ (3) ~~A district may exceed its applicable allowable growth rate by a specific dollar amount if construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a district to exceed its applicable allowable growth percentage by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall, if needed, modify the district's applicable allowable growth rate for the ensuing school year.~~

(5) ~~A~~ (4) ~~A district may exceed its applicable allowable growth rate by a specific dollar amount if the~~ district demonstrates to the satisfaction of the state board that as a result of an order entered into by the Commission

of Industrial Relations pursuant to section 48-818 establishing rates of pay, benefits, and other terms and conditions of employment, the district will exceed its applicable allowable growth rate. The department shall compute the amount by which the increase in employee costs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

(6) A district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of a contested, but settled, contract dispute, claim, or breach or uninsured risk or as a result of any final judgment of any court of competent jurisdiction, requiring or obligating the district to pay such judgment. The department shall compute the amount by which the increased cost of the settlement or judgment exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

(6) A district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of costs pursuant to the Retirement Incentive Plan authorized in section 34 of this act or the Staff Development Assistance authorized in section 35 of this act. The department shall compute the amount by which the increased cost of such program or programs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund expenditures by such amount for that fiscal year.

Sec. 33. (1) If the reorganization of two or more school districts will involve a reduction in force, all certificated employees from the district or districts involved in the reorganization shall have, except as limited by subsection (2) of this section, the option to: (a) Retire under the Retirement Incentive Plan pursuant to section 34 of this act; (b) terminate employment and receive Staff Development Assistance pursuant to section 35 of this act; or (c) remain employed by the district subject to personnel policies and staffing requirements of the reorganized district or districts. Each certificated employee shall be notified in writing of the proposed reorganization, the number of employees which will be reduced, and the availability of the Retirement Incentive Plan and Staff Development Assistance prior to such reorganization. If the reorganization will involve a reduction in force prior to the effective date of the reorganization, the notification shall be made by March 15 of the school year in effect; otherwise, the notification shall be made at least thirty calendar days prior to the effective date of the reorganization but in no event later than March 15 of the calendar year in which action on the reduction in force will occur. The employee election to retire under the Retirement Incentive Plan or to terminate employment and receive Staff Development Assistance shall be made within fifteen calendar days after receiving the notification, or those options are waived.

(2) For each reorganization, the number of certificated employees which receive either the Retirement Incentive Plan or Staff Development Assistance shall be limited to the number of certificated employees which are reduced due to the reorganization. If the number of employees electing participation in the Retirement Incentive Plan or Staff Development Assistance exceed the number of employees which will be reduced, selection for participation shall be determined by the date and time of receipt of the employee election. Employee elections which are received first shall be selected, and all certificated employees in all districts involved in the reorganization shall be treated equally in determining such selection.

Sec. 34. (1) Except as limited by subsection (2) of section 33 of this act, all certificated employees from a district involved in a reorganization who are at least fifty-five years of age on the date of reorganization shall be eligible to participate in the Retirement Incentive Plan pursuant to this section if, within fifteen calendar days after receiving notification, the employee signs an agreement to retire effective on or prior to the effective date of the reorganization. To receive a benefit under the Retirement Incentive Plan, a certificated employee must have completed five years of creditable service prior to the effective date of retirement.

(2) A qualified certificated employee who elects retirement under the Retirement Incentive Plan shall receive a benefit in the form of a lump-sum amount, payable in one or two payments. Such payments shall not be included in the determination of final average compensation pursuant to the School Employees Retirement Act. The payments to the certificated employee shall equal seven hundred dollars for each year of service with the district and shall not exceed twenty-four thousand five hundred dollars for each

certificated employee receiving benefits under this section.

(3) The Retirement Incentive Plan shall be available to employees only prior to the allocation of staff pursuant to section 36 of this act.

(4) Costs of the Retirement Incentive Plan, prior to the allocation of staff, shall be allocated among the reorganized districts based upon the proportion of valuation each district receives. Such costs shall not be included in general fund operating expenditures as defined in section 654, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, for that fiscal year. Costs associated with agreements beyond the scope of the Retirement Incentive Plan shall be the sole responsibility of the reorganized district involved in the agreement.

(5) Payments made to employees pursuant to the Retirement Incentive Plan shall be made according to the reorganization plan and, if not specified in the plan, by the reorganized district receiving the largest valuation.

(6) Participation in an early retirement program, other than the Retirement Incentive Plan, shall not be available to transferring staff for a period of one year after the date of reorganization.

Sec. 35. (1) Except as limited by subsection (2) of section 33 of this act, all certificated employees from a district involved in a reorganization who, within fifteen calendar days after receiving notification of the availability of Staff Development Assistance pursuant to section 33 of this act, terminate employment voluntarily, contract to waive any reduction-in-force rights pursuant to sections 476 to 479, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, and sign a Staff Development Assistance agreement, shall receive one year of Staff Development Assistance. Staff Development Assistance shall be available to employees only prior to allocation of staff pursuant to section 36 of this act.

(2) Staff Development Assistance shall not be included in the determination of final average compensation pursuant to the School Employees Retirement Act.

(3) The Staff Development Assistance agreement shall specify that:

(a) A stipend equal to fifty percent of annual salary shall be contingent upon enrollment and attendance at a Nebraska state college or the University of Nebraska; or a stipend equal to twenty-five percent of annual salary shall be provided if not enrolled nor in attendance at a Nebraska state college or the University of Nebraska;

(b) The stipend will cease upon attainment of employment of twenty or more hours per week;

(c) The stipend will be paid in the same manner as contract payments for the most recent contract year;

(d) Tuition for two semesters, if applicable, will be paid directly to the Nebraska state college or the University of Nebraska and shall equal resident tuition charges plus fees of such school and will not include costs of books or other instructional materials; and

(e) All reduction-in-force rights pursuant to sections 476 to 479, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, are waived by signing the agreement.

(4) Costs of Staff Development Assistance, prior to the allocation of staff, shall be allocated among the reorganized districts based upon the proportion of valuation each district receives. Such costs shall not be included in general fund operating expenditures as defined in section 654, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, for that fiscal year. Costs associated with agreements beyond the scope of Staff Development Assistance shall be the sole responsibility of the reorganized district involved in the agreement.

(5) Payments made to employees pursuant to Staff Development Assistance shall be made according to the reorganization plan and, if not specified in the plan, by the reorganized district receiving the largest valuation.

Sec. 36. For reorganizations involving consolidation of school districts into one or more reorganized districts, staff not electing retirement pursuant to section 34 of this act or Staff Development Assistance pursuant to section 35 of this act shall be allocated prior to the effective date of reorganization as follows:

(1) All districts involved may enter into an agreement on the allocation of all certificated employees to one or more of the reorganized districts. No certificated employee shall be allocated to more than one district. Such agreement shall be signed by all the districts involved;

(2) All certificated employees from the district or districts who have not been allocated pursuant to subdivision (1) of this section shall be totaled and allocated among the reorganized districts based upon the proportion of students transferring to the reorganized district;

(3) All certificated employees from the district shall be treated equally in the allocation regardless of seniority. Staff shall not be given the option to choose the reorganized district in which to relocate. Random selection shall be utilized to allocate individual employees among all reorganized districts; and

(4) Once the selection and allocation is completed, employees from the district or districts shall retain years of service from the previous district for purposes of seniority. Within each reorganized district, employees from the receiving district shall not have priority over transferring employees. All reduction-in-force laws and policies shall apply.

Sec. 37. Any agreements other than the Retirement Incentive Plan pursuant to section 34 of this act or Staff Development Assistance pursuant to section 35 of this act shall be the sole responsibility of the reorganized district.

Sec. 38. The State Board of Education, with the assistance of the State Department of Education, shall adopt and promulgate rules and regulations for the administration and distribution of funds to contiguous school districts for reimbursement of costs of studies for the development and implementation of reorganization plans designed to enhance the educational opportunities to students and improve cost efficiency. The State Department of Education, if requested, shall assist contiguous school districts in the development of study proposals or reorganization plans.

Sec. 39. (1) To receive matching funds for reorganization studies, two or more contiguous school districts shall adopt by majority vote of the membership of each participating school board a study proposal and submit such proposal to the State Board of Education for approval.

(2) The proposal shall include the study and analysis of:

(a) Past and projected enrollment trends and other student demographic characteristics and special service needs;

(b) School facilities;

(c) Educational programs;

(d) Student transportation systems and needs;

(e) Financial resources available from local, state, and federal sources;

(f) Personnel characteristics, capabilities, and assignments; and

(g) Other considerations.

(3) The final study report shall include:

(a) An analysis of the data studied, findings, and recommendations;

(b) A plan for the reorganization of the participating school districts; and

(c) A timeline for the implementation of the plan.

(4) Upon selection of the study consultant and approval of the State Board of Education of the study proposal and the consultant's study proposal, the participating school districts shall receive collectively one-fourth of the cost of the study, but not more than two thousand five hundred dollars.

(5) Upon approval of a reorganization plan by the boards and voters of the participating school districts, the participating school districts shall receive collectively an additional one-fourth of the cost of the study, but not more than two thousand five hundred dollars.

Sec. 40. Section 79-3822, Reissue Revised Statutes of Nebraska, is amended to read:

79-3822. The department shall annually, on or before December 1, provide data to the Governor to enable the Governor to prepare the necessary legislation to:

(1) Appropriate an amount which will provide financial support from all state sources, including the amounts transferred pursuant to sections 4 and 7, Legislative Bill 700, Ninety-fourth Legislature, Second Session, 1996, to districts equal to forty-five percent of the estimated statewide aggregate general fund operating expenditures of districts for Nebraska elementary and secondary public education for the ensuing school year;

(2) Appropriate an amount of income tax revenue received to insure that twenty percent of all income tax receipts are dedicated to the support of districts throughout the state;

(3) Appropriate an amount equal to any state aid funds which have been returned to the General Fund from an earlier appropriation due to the repayment of funds by districts; and

(4) Establish and implement a basic allowable growth rate and an allowable growth range for district budgets for the ensuing school year.

The Governor shall submit such legislation, along with any modifications made by the Governor as part of his or her annual budget request, to the Legislature.

Sec. 41. The Legislature recognizes that the Tax Equity and

Educational Opportunities Support Act does not currently recognize the unique costs associated with funding a quality education program for students living in the sparsely populated areas of the state. Therefor, the School Finance Review Committee is directed to (1) conduct a study of the unique costs associated with providing a quality education program for students living in sparsely populated areas in the state, (2) prepare a recommendation to the Legislature indicating how a sparsity factor should be structured for incorporation into the school finance formula, and (3) present its recommendation to the Education Committee of the Legislature by December 15, 1996.

Sec. 42. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 43. Sections 27, 28, and 45 of this act become operative May 5, 1995. The other sections of this act become operative on their effective date.

Sec. 44. Original sections 77-913, 79-402, 79-516.08, 79-1522.01, 79-3404, 79-3409, 79-3802, 79-3805, 79-3807, 79-3808, 79-3810, 79-3811, 79-3817, and 79-3822, Reissue Revised Statutes of Nebraska, and sections 79-4,176.01, 79-4,179.01, 79-4,180, 79-3801, 79-3803, 79-3804, 79-3806, 79-3806.01, 79-3809, 79-3812, 79-3813, and 79-3819, Revised Statutes Supplement, 1995, are repealed.

Sec. 45. Original sections 79-3811.01 and 79-3811.02, Revised Statutes Supplement, 1995, are repealed.

Sec. 46. Since an emergency exists, this act takes effect when passed and approved according to law.