

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 401

Introduced by Lautenbaugh, 18.

Read first time January 18, 2013

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 13-916, 17-159,
2 48-1503, 66-1063, 79-405, 79-407, 79-409, 79-514, 79-516,
3 79-601, 79-610, 79-734, 79-746, and 79-10,105, Reissue
4 Revised Statutes of Nebraska, and sections 79-408 and
5 79-2115, Revised Statutes Cumulative Supplement, 2012; to
6 adopt the School Purchasing Act; to harmonize provisions;
7 and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 15 of this act shall be known
2 and may be cited as the School Purchasing Act.

3 Sec. 2. The purposes of the School Purchasing Act are to
4 provide a uniform purchasing procedure for school district and
5 learning community purchases of equipment, supplies, other items of
6 personal property, and services and to provide for sale of surplus
7 personal property which is obsolete or not usable by the school
8 district or learning community.

9 Sec. 3. It is the intent of the Legislature to encourage
10 school districts and learning communities to work together under the
11 School Purchasing Act when joint purchases would be to the best
12 advantage of such school districts and learning communities.

13 Sec. 4. For purposes of the School Purchasing Act:

14 (1) Learning community has the definition found in
15 section 79-2101;

16 (2) Mobile equipment means all vehicles propelled by any
17 power other than muscular, including, but not limited to, motor
18 vehicles, off-road designed vehicles, motorcycles, passenger cars,
19 buses, self-propelled mobile homes, truck-tractors, trucks, cabin
20 trailers, semitrailers, trailers, and utility trailers;

21 (3) Personal property includes, but is not limited to,
22 supplies, materials, mobile equipment, and equipment used by or
23 furnished to any school district or learning community;

24 (4) Purchasing or purchase means the obtaining of
25 personal property or services by sale, lease, or other contractual

1 means; and

2 (5) Services means any and all services except telephone,
3 telegraph, postal, and electric light and power service and other
4 similar services.

5 Sec. 5. The school board or board of education of a Class
6 IV or Class V school district, the school board or board of education
7 of a Class III school district encompassing a city having a
8 population of fifty thousand inhabitants or more, and a learning
9 community coordinating council shall and the school board or board of
10 education of any other class of school district may employ a
11 purchasing agent who shall not be a member or officer of the board or
12 coordinating council. All purchases made from funds of the school
13 district or learning community shall be made through the purchasing
14 agent. The board or coordinating council shall pay the agent for such
15 services as shall be agreed upon at the time of employment. The
16 purchasing agent shall serve at the pleasure of the board or
17 coordinating council and give bond in such amount as the board or
18 coordinating council shall prescribe.

19 Sec. 6. The purchasing agent, under the supervision of
20 the school board, board of education, or learning community
21 coordinating council, or the board, if there is no purchasing agent,
22 shall purchase all personal property and services required by any
23 office, school, or facility of the school district or any office or
24 facility of the learning community, subject to the School Purchasing
25 Act. The purchasing agent or the board, if there is no purchasing

1 agent, shall draw up and enforce standard specifications which shall
2 apply to all personal property purchased for the use of the school
3 district or learning community, shall have charge of all central
4 storerooms operated or established by the board or coordinating
5 council, and shall transfer personal property to or between the
6 offices, schools, and facilities of the school district or between
7 the offices and facilities of the learning community.

8 Sec. 7. The school board, board of education, learning
9 community coordinating council, or purchasing agent subject to the
10 approval of the board or coordinating council, shall:

11 (1) Prescribe the manner in which personal property shall
12 be purchased, delivered, and distributed;

13 (2) Prescribe dates for making estimates, the future
14 period which the estimates cover, the form in which the estimates
15 should be submitted, and the manner of authentication;

16 (3) Revise forms from time to time as conditions warrant;

17 (4) Provide for the transfer to and between offices,
18 schools, and facilities of personal property which is surplus with
19 one but which may be needed by another or others;

20 (5) Dispose by sale of personal property which has been
21 declared by the board or coordinating council to be surplus and which
22 is obsolete or not usable by the school district or learning
23 community. Except as otherwise provided in subsection (2) of section
24 15 of this act, such property with a value of less than two thousand
25 five hundred dollars may be sold without competitive bidding. Except

1 as otherwise provided in such subsection, property with a value of
2 two thousand five hundred dollars or more shall be sold through
3 competitive bidding;

4 (6) Prescribe the amount of cash deposit or bond to be
5 submitted with a bid on a contract and the amount of deposit or bond
6 to be given for the performance of a contract, if the amount of the
7 bond is not specifically provided by law; and

8 (7) Prescribe the manner in which claims for personal
9 property or services delivered to any office, school, or facility of
10 the school district or any office or facility of the learning
11 community shall be submitted, approved, and paid.

12 Sec. 8. (1) Except as provided in section 9 of this act,
13 purchases of personal property or services by the school board, board
14 of education, learning community coordinating council, or purchasing
15 agent shall be made:

16 (a) Through the competitive sealed bidding process
17 prescribed in section 11 of this act if the estimated value of the
18 purchase is twenty thousand dollars or more;

19 (b) By securing and recording at least three informal
20 bids, if practicable, if the estimated value of the purchase is equal
21 to or exceeds five thousand dollars, but is less than twenty thousand
22 dollars; or

23 (c) By purchasing in the open market if the estimated
24 value of the purchase is less than five thousand dollars, subject to
25 section 12 of this act. In any school district in which the board has

1 not appointed a purchasing agent pursuant to section 5 of this act,
2 the superintendent or his or her designee is authorized to make
3 purchases with an estimated value less than five thousand dollars.

4 (2) In no case shall a purchase made pursuant to
5 subsection (1) of this section be divided to produce several
6 purchases which are of an estimated value below that established in
7 such subsection.

8 (3) All contracts and leases shall be approved as to form
9 by the attorney for the school district or learning community, and a
10 copy of each long-term contract or lease shall be filed with the
11 secretary of the board or with the learning community coordinating
12 council.

13 Sec. 9. (1) Competitive bidding shall not be required (a)
14 when purchasing unique or noncompetitive items, (b) when purchasing
15 petroleum products, (c) when obtaining professional services or
16 equipment maintenance, or (d) when the price has been established by
17 one of the following: (i) The federal General Services
18 Administration; (ii) the materiel division of the Department of
19 Administrative Services; or (iii) a cooperative purchasing agreement
20 by which supplies, equipment, or services are procured in accordance
21 with a contract established by another governmental entity or group
22 of governmental entities if the contract was established in
23 accordance with the laws and regulations applicable to the
24 establishing governmental entity or, if a group, the lead
25 governmental entity.

1 (2) The school board, board of education, or learning
2 community coordinating council may, by majority vote of its members,
3 waive the bidding requirements of the School Purchasing Act if such
4 waiver is necessary to meet an emergency which threatens serious loss
5 of life, health, or property in the school district or coordinating
6 council.

7 (3) The board or coordinating council may waive the
8 bidding requirements of the act if the school district or learning
9 community can save a significant amount of money by entering into a
10 special purchase. The board or coordinating council shall, five days
11 prior to such special purchase, publish notice of its intention to
12 make such a special purchase, stating the items considered and
13 inviting informal quotes. A two-thirds vote of the entire board or
14 coordinating council shall approve such special purchase.

15 Sec. 10. In awarding a bid under the School Purchasing
16 Act, the following elements shall be given consideration when
17 applicable:

18 (1) The price;

19 (2) The ability, capacity, and skill of the supplier to
20 perform;

21 (3) The character, integrity, reputation, judgment,
22 experience, and efficiency of the supplier;

23 (4) The quality of previous performance;

24 (5) Whether the supplier can perform within the time
25 specified;

1 (6) The previous and existing compliance of the supplier
2 with laws relating to the purchase or contract;

3 (7) The life-cost of the personal property or service in
4 relation to the purchase price and the specific use;

5 (8) The performance of the personal property or service
6 taking into consideration any commonly accepted tests and standards
7 of product or service usability and user requirements;

8 (9) The energy efficiency ratio as stated by the
9 supplier;

10 (10) The life-cycle costs between alternatives for all
11 classes of equipment, the evidence of expected life, the repair and
12 maintenance costs, and the energy consumption on a per-year basis;
13 and

14 (11) Such other information as may be secured having a
15 bearing on the decision.

16 Sec. 11. When competitive sealed bidding is required by
17 section 8 of this act:

18 (1) Sealed bids shall be solicited by public notice in a
19 legal newspaper of general circulation in the school district or
20 within the geographic boundaries of the learning community at least
21 once a week for two consecutive weeks before the final date of
22 submitting bids;

23 (2) In addition to the means provided in subdivision (1)
24 of this section, sealed bids may also be solicited by sending
25 requests by mail to prospective suppliers and by posting notice on a

1 public bulletin board;

2 (3) Public notice under this section shall contain: (a) A
3 general description of the proposed purchase; (b) an invitation for
4 sealed bids; (c) the name of the school district official or learning
5 community official in charge of receiving the bids; (d) the date,
6 time, and place the bids received shall be opened; and (e) whether
7 alternative items will be considered;

8 (4) All bids shall remain sealed until opened on the
9 published date and time by the school board, board of education,
10 learning community coordinating council, purchasing agent, or
11 designated agent;

12 (5) Any or all bids may be rejected and the bid need not
13 be awarded at the time of opening, but may be held over for further
14 consideration;

15 (6) If all bids received on a pending contract are for
16 the same unit price or total amount and appear to be so as the result
17 of collusion between the bidders, the board, coordinating council, or
18 purchasing agent may reject all bids and purchase the personal
19 property or services in the open market, except that the price paid
20 in the open market shall not exceed the bid price;

21 (7) Each bid, with the name of bidder, shall be entered
22 on a record and each record, with the successful bidder indicated
23 thereon, shall, after the award is made or contract executed, be open
24 to public inspection; and

25 (8) All lettings on such bids shall be public and shall

1 be conducted as provided in Chapter 73, article 1. In the event of a
2 conflict between the School Purchasing Act and the provisions of
3 Chapter 73, article 1, the School Purchasing Act controls.

4 Sec. 12. Except in an emergency, which the school board,
5 board of education, or learning community coordinating council shall
6 declare by resolution, no order for delivery on a contract on open
7 market order for personal property or services for any office,
8 school, or facility of the school district or any office or facility
9 of the learning community shall be awarded until the treasurer of the
10 board or until the coordinating council is satisfied that the
11 unencumbered balance in the fund from which payment will be made, in
12 excess of all unpaid obligations, is sufficient to defray the cost of
13 such order or contract and is satisfied that the purchase is one
14 contemplated in the terms of the budget as set up by the board or
15 coordinating council. Whenever any office, school, or facility of the
16 school district or any office or facility of the learning community
17 purchases or contracts for any personal property or services contrary
18 to the School Purchasing Act, such order or contract shall be void.
19 The person responsible for the order or contract shall be personally
20 liable for the costs of such order or contract, and if already paid
21 for out of school district or learning community funds, the amount
22 may be recovered in the name of the school district or learning
23 community in an appropriate action.

24 Sec. 13. (1) The purchasing agent or any member of his or
25 her office staff, if any, shall not be financially interested in or

1 have any personal beneficial interest, either directly or indirectly,
2 in any contract or purchase order for any personal property or
3 services used by or furnished to any office, school, or facility of
4 the school district or to the learning community. The purchasing
5 agent or any member of his or her staff, if any, shall not receive
6 directly or indirectly, from any person, firm, or corporation to
7 which any contract or purchase order may be awarded, by rebate, gift,
8 or otherwise, any money, anything of value whatsoever, or any
9 promise, obligation, or contract for future reward or compensation.
10 Any purchasing agent or any member of his or her office staff, if
11 any, who violates any of the provisions of the School Purchasing Act
12 shall be guilty of a Class IV felony. All contracts or agreements in
13 violation of this section are declared unlawful and shall be wholly
14 void as an obligation against the school district or learning
15 community.

16 (2) If there is no purchasing agent, the school board or
17 board of education acting pursuant to the School Purchasing Act shall
18 be subject to section 49-14,103.01.

19 Sec. 14. The school board, board of education or the
20 learning community coordinating council, in addition to other powers
21 granted by law, may enter into contracts for lease of real or
22 personal property for authorized purposes. Such leases shall not be
23 restricted to a single year and may provide for the purchase of the
24 property in installment payments.

25 Sec. 15. (1) The school board, board of education, or

1 learning community coordinating council, or the purchasing agent with
2 the approval of the board or coordinating council, may authorize an
3 official or employee to sell surplus personal property, other than
4 mobile equipment, which is obsolete or not usable by the school
5 district or learning community and which has a value of less than two
6 thousand five hundred dollars. In making such authorization, the
7 board, coordinating council, or purchasing agent may place any
8 restriction on the type or value of property to be sold, restrict
9 such authority to a single transaction or to a period of time, or
10 make any other appropriate restrictions or conditions.

11 (2) The board or coordinating council, or the purchasing
12 agent with the approval of the board or coordinating council, may
13 authorize an official or employee to sell surplus mobile equipment
14 which is obsolete or not usable by the school district or learning
15 community and which has a value of less than five thousand dollars.
16 Surplus mobile equipment which is obsolete or not usable by the
17 school district or learning community and which has a value of five
18 thousand dollars or more shall be sold through competitive bidding.

19 (3) Any school district official or employee and any
20 learning community official or employee granted the authority to sell
21 surplus personal property which is obsolete or not usable by the
22 school district or learning community as prescribed in subsection (1)
23 or (2) of this section shall make a written report to the board or
24 coordinating council within thirty days after the end of the fiscal
25 year reflecting, for each transaction, the item sold, the name and

1 address of the purchaser, the price paid by the purchaser for each
2 item, and the total amount paid by the purchaser.

3 (4) The money generated by any sales authorized by this
4 section shall be payable to the treasurer of the school district or
5 learning community and shall be credited to the funds of the office,
6 school, or facility of the school district or funds of the learning
7 community to which the property belonged.

8 (5) No person authorized by the board, coordinating
9 council, or purchasing agent to make such sales shall be authorized
10 to make or imply any warranty of any kind whatsoever as to the
11 nature, use, condition, or fitness for a particular purpose of any
12 property sold pursuant to this section. Any person making sales
13 authorized by this section shall inform the purchaser that such
14 property is being sold as is without any warranty of any kind
15 whatsoever.

16 Sec. 16. Section 13-916, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 13-916 The governing body of any political subdivision,
19 including any school district, educational service unit, or community
20 college, may purchase a policy of liability insurance insuring
21 against all or any part of the liability which might be incurred
22 under the Political Subdivisions Tort Claims Act and also may
23 purchase insurance covering those claims specifically excepted from
24 the coverage of the act by section 13-910. Any independent or
25 autonomous board or commission in the political subdivision having

1 authority to disburse funds for a particular purpose of the
2 subdivision without approval of the governing body also may procure
3 liability insurance within the field of its operation. The
4 procurement of insurance shall constitute a waiver of the defense of
5 governmental immunity as to those exceptions listed in section 13-910
6 to the extent and only to the extent stated in such policy. The
7 existence or lack of insurance shall not be material in the trial of
8 any suit except to the extent necessary to establish any such waiver.
9 Whenever a claim or suit against a political subdivision is covered
10 by liability insurance or by group self-insurance provided by a risk
11 management pool, the provisions of the insurance policy on defense
12 and settlement or the provisions of the agreement forming the risk
13 management pool and related documents providing for defense and
14 settlement of claims covered under such group self-insurance shall be
15 applicable notwithstanding any inconsistent provisions of the act.

16 A purchase under this section by a school district is
17 subject to the School Purchasing Act.

18 Sec. 17. Section 17-159, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 17-159 The members of the board of education of the
21 school district and the city council of the city of the second class,
22 which board and council have agreed to build a joint municipal and
23 recreation building or joint recreational and athletic field, shall
24 be the building commission to purchase the land for the building and
25 to contract for the erection, equipment, and furnishings of the

1 building or the recreational and athletic field. After the completion
2 thereof, such building commission shall be in charge of the
3 maintenance and repair thereof.

4 Any purchase of personal property or services as defined
5 in section 4 of this act by a school district relating to the
6 erection, equipment, and furnishing of a building or field under this
7 section is subject to the School Purchasing Act.

8 Sec. 18. Section 48-1503, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 48-1503 Whenever the State of Nebraska, any department or
11 any agency thereof, or any county, municipality, school district,
12 township, or other governmental subdivision is required to advertise
13 for bids pursuant to any statutes of the State of Nebraska, it may
14 directly negotiate and contract for products and services with a
15 sheltered workshop. Direct negotiation for products and services,
16 notwithstanding the procedures for public lettings pursuant to
17 sections 73-101 to 73-106, may be conducted if the department,
18 agency, or subdivision gives consideration to the following elements:

19 (1) Whether the product or service contracted for is
20 supplied by the sheltered workshop at a fair market price;

21 (2) Whether the product or service meets the
22 specifications of the department, agency, or subdivision;

23 (3) The ability, capacity, and skill of the sheltered
24 workshop to perform the contract required;

25 (4) The character, integrity, reputation, judgment,

1 experience, and efficiency of the sheltered workshop;

2 (5) Whether the sheltered workshop can perform the
3 contract within the time specified;

4 (6) The quality of performance of previous contracts;

5 (7) The previous and existing compliance by the sheltered
6 workshop with laws relating to the contract;

7 (8) The life-cost of the product or service in relation
8 to the purchase price and specific use of the item; and

9 (9) The performance of the product or service, taking
10 into consideration any commonly accepted tests and standards of
11 product usability and user requirements.

12 An agency, subdivision, or city under home rule charter
13 shall furnish prior public notice of its intention to enter into such
14 contract, the general nature of the proposed work, and the name of
15 the person to be contacted for additional information by any
16 sheltered workshop interested in contracting for such work.

17 Any contract negotiated pursuant to this section shall be
18 in writing and shall be made available to the public by the
19 purchasing party upon request. Such a contract shall include the
20 purchase price, the quantity of product or service purchased, and the
21 time period for which the product or service will be provided.

22 Any contract for the purchase of personal property or
23 services as defined in section 4 of this act by a school district
24 under this section is subject to the School Purchasing Act.

25 Sec. 19. Section 66-1063, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 66-1063 ~~Notwithstanding~~ (1) Except as provided in
3 subsection (2) of this section, notwithstanding the procedures for
4 public lettings in sections 73-101 to 73-106 or any other statute of
5 the State of Nebraska relating to the letting of bids by a
6 governmental unit, a governmental unit may enter into an energy
7 financing contract with an energy service company pursuant to
8 sections 66-1062 to 66-1066.

9 (2) An energy financing contract executed by a school
10 district under sections 66-1062 to 66-1066 is subject to the School
11 Purchasing Act.

12 Sec. 20. Section 79-405, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-405 Every duly organized school district shall be a
15 body corporate and possess all the usual powers of a corporation for
16 public purposes, may sue and be sued, and may purchase, hold, and
17 sell such personal and real estate as the law allows. Any purchase of
18 personal property or services as defined in section 4 of this act by
19 a school district under this section is subject to the School
20 Purchasing Act.The county in which the principal office of the school
21 district is located together with the school district number assigned
22 pursuant to section 79-307 shall constitute the corporate name of the
23 school district, such as County School District

24 Sec. 21. Section 79-407, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 79-407 The territory within the corporate limits of each
2 incorporated city or village in the State of Nebraska that is not in
3 part within the boundaries of a learning community, together with
4 such additional territory and additions to such city or village as
5 may be added thereto, as declared by ordinances to be boundaries of
6 such city or village, having a population of more than one thousand
7 and less than one hundred fifty thousand inhabitants, including such
8 adjacent territory as now is or hereafter may be attached for school
9 purposes, shall constitute a Class III school district, except that
10 nothing in this section shall be construed to change the boundaries
11 of any school district that is a member of a learning community. The
12 school district shall be a body corporate and possess all the usual
13 powers of a corporation for public purposes and may sue and be sued,
14 purchase, hold, and sell such personal and real property, and control
15 such obligations as are authorized by law.

16 Any purchase of personal property or services as defined
17 in section 4 of this act by a school district under this section is
18 subject to the School Purchasing Act.

19 Sec. 22. Section 79-408, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 79-408 The territory now or hereafter embraced within
22 each incorporated city of the primary class in the State of Nebraska
23 that is not in part within the boundaries of a learning community,
24 such adjacent territory as now or hereafter may be included therewith
25 for school purposes, and such territory not adjacent thereto as may

1 have been added thereto by law shall constitute a Class IV school
2 district, except that nothing in this section shall be construed to
3 change the boundaries of any school district that is a member of a
4 learning community. A Class IV school district shall be a body
5 corporate and possess all the usual powers of a corporation for
6 public purposes, may sue and be sued, and may purchase, hold, and
7 sell such personal and real estate and contract such obligations as
8 are authorized by law. The powers of a Class IV district include, but
9 are not limited to, the power to adopt, administer, and amend from
10 time to time such retirement, annuity, insurance, and other benefit
11 plans for its present and future employees after their retirement, or
12 any reasonable classification thereof, as may be deemed proper by the
13 board of education. The board of education shall not establish a
14 retirement system for new employees supplemental to the School
15 Employees Retirement System of the State of Nebraska.

16 The title to all real or personal property owned by such
17 school district shall, upon the organization of the school district,
18 vest immediately in the school district so created. The board of
19 education shall have exclusive control of all property belonging to
20 the school district. Any purchase of personal property or services as
21 defined in section 4 of this act by a school district under this
22 section is subject to the School Purchasing Act.

23 In the discretion of the board of education, funds
24 accumulated in connection with a retirement plan may be transferred
25 to and administered by a trustee or trustees to be selected by the

1 board of education, or if the retirement plan is in the form of
2 annuity or insurance contracts, such funds, or any part thereof, may
3 be paid to a duly licensed insurance carrier or carriers selected by
4 the board of education. Funds accumulated in connection with any such
5 retirement plan, and any other funds of the school district which are
6 not immediately required for current needs or expenses, may be
7 invested and reinvested by the board of education or by its authority
8 in securities of a type permissible either for the investment of
9 funds of a domestic legal reserve life insurance company or for the
10 investment of trust funds, according to the laws of the State of
11 Nebraska.

12 Sec. 23. Section 79-409, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-409 Each incorporated city of the metropolitan class
15 in the State of Nebraska shall contain at least one Class V school
16 district. A Class V school district shall be a body corporate and
17 possess all the usual powers of a corporation for public purposes and
18 may sue and be sued, purchase, hold, and sell such personal and real
19 property, and control such obligations as are authorized by law. Any
20 purchase of personal property or services as defined in section 4 of
21 this act by a school district under this section is subject to the
22 School Purchasing Act.

23 Sec. 24. Section 79-514, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 79-514 (1) The school board or board of education of any

1 school district has the authority to (a) purchase retirement annuity
2 contracts for any or all of its employees from any insurance company
3 licensed to do business in the State of Nebraska, (b) enter into
4 contracts with its employees providing for the purchase by it of such
5 retirement annuity contracts, (c) provide for the purchase by it of
6 such retirement annuity contracts in the general contract of
7 employment with any or all of its employees, or (d) for the purposes
8 of separation payments made at retirement and early retirement
9 inducements, make contributions picked up under section 414(h) of the
10 Internal Revenue Code to plans under section 401(a) or 403(a) of the
11 code and make contributions to plans under section 403(b) of the
12 code. A purchase under this section by a school district is subject
13 to the School Purchasing Act.

14 (2) Nothing in this section nor any other provision of
15 Chapter 79 shall be construed to authorize a school board or board of
16 education of any school district to offer a separate plan classified
17 as a qualified plan under section 401(a) of the Internal Revenue Code
18 unless specifically listed in this section.

19 (3) When necessary in connection with the purchase of
20 retirement annuity contracts, any such employee may execute an order
21 authorizing the withholding of necessary amounts from any wages or
22 salary payable to the employee and such order and revocation thereof
23 shall be executed in the manner and form required by section 44-1609.

24 Sec. 25. Section 79-516, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 79-516 (1) For purposes of this section, (a) school board
2 has the definition found in section 79-101 and (b) school district
3 has the definition found in such section.

4 (2) A school district may indemnify any person who was or
5 is a party or is threatened to be made a party to any threatened,
6 pending, or completed action, suit, or proceeding, whether civil,
7 criminal, administrative, or investigative, other than an action by
8 or in the right of the school district, by reason of the fact that
9 such person is or was a school board member or an officer, employee,
10 or agent of the school district, against expenses, including
11 attorney's fees, judgments, fines, and amounts paid in settlement
12 actually and reasonably incurred by him or her in connection with
13 such action, suit, or proceeding if such person acted in good faith
14 and in a manner which he or she reasonably believed to be in or not
15 opposed to the best interests of the school district and, with
16 respect to any criminal action or proceeding, had no reasonable cause
17 to believe that his or her conduct was unlawful. The termination of
18 any action, suit, or proceeding by judgment, order, settlement, or
19 conviction or upon a plea of nolo contendere or its equivalent shall
20 not of itself create a presumption that such person did not act in
21 good faith and in a manner which he or she reasonably believed to be
22 in or not opposed to the best interests of the school district and,
23 with respect to any criminal action or proceeding, had reasonable
24 cause to believe that his or her conduct was unlawful.

25 (3) A school district may indemnify any person who was or

1 is a party or is threatened to be made a party to any threatened,
2 pending, or completed action or suit by or in the right of the school
3 district to procure a judgment in its favor by reason of the fact
4 that such person is or was a school board member or an officer,
5 employee, or agent of the school district, against expenses,
6 including attorney's fees, actually and reasonably incurred by him or
7 her in connection with the defense or settlement of such action or
8 suit if such person acted in good faith and in a manner he or she
9 reasonably believed to be in or not opposed to the best interests of
10 the school district, except that no indemnification shall be made in
11 respect of any claim, issue, or matter as to which such person was
12 adjudged to be liable for negligence or misconduct in the performance
13 of his or her duty to the school district unless and only to the
14 extent that the court in which such action or suit was brought
15 determines upon application that, despite the adjudication of
16 liability but in view of all circumstances of the case, such person
17 is fairly and reasonably entitled to indemnity for such expenses
18 which such court deems proper.

19 (4) To the extent that a school board member or an
20 officer, employee, or agent of a school district has been successful
21 on the merits or otherwise in defense of any action, suit, or
22 proceeding referred to in subsections (2) and (3) of this section or
23 in defense of any claim, issue, or matter in such action, suit, or
24 proceeding, he or she shall be indemnified against expenses,
25 including attorney's fees, actually and reasonably incurred by him or

1 her in connection with such defense.

2 (5) Any indemnification under such subsections, unless
3 ordered by a court, shall be made by the school district only as
4 authorized in the specific case upon a determination that
5 indemnification of the school board member or the officer, employee,
6 or agent of the school district is proper in the circumstances
7 because he or she has met the applicable standard of conduct set
8 forth in such subsections. Such determination shall be made by the
9 school board members by a majority vote of a quorum consisting of
10 school board members who were not parties to such action, suit, or
11 proceeding or, if such a quorum is not obtainable or even if
12 obtainable a quorum of disinterested board members so directs, by
13 independent legal counsel in a written opinion.

14 (6) Expenses incurred in defending a civil or criminal
15 action, suit, or proceeding may be paid by the school district in
16 advance of the final disposition of such action, suit, or proceeding
17 as authorized in the manner provided in subsection (5) of this
18 section upon receipt of an undertaking by or on behalf of the school
19 board member or the officer, employee, or agent of the school
20 district to repay such amount unless it is ultimately determined that
21 he or she is entitled to be indemnified by the school district as
22 authorized in this section.

23 (7) The indemnification provided by this section shall
24 not be deemed exclusive of any other rights to which the person
25 indemnified may be entitled under any agreement, either as to action

1 in his or her official capacity or as to action in another capacity
2 while holding such office, and shall continue as to a person who has
3 ceased to be a school board member or an officer, employee, or agent
4 of the school district and shall inure to the benefit of the heirs,
5 executors, and administrators of such person.

6 (8) A school district may purchase and maintain insurance
7 on behalf of any person who is or was a school board member or an
8 officer, employee, or agent of the school district against any
9 liability asserted against him or her and incurred by him or her in
10 any such capacity or arising out of his or her status as such,
11 whether or not the school district would have the power to indemnify
12 him or her against such liability under this section. A purchase
13 under this section by a school district is subject to the School
14 Purchasing Act.

15 Sec. 26. Section 79-601, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 79-601 The school board or board of education of any
18 public school district may, when authorized by a majority vote of the
19 members of such board, purchase out of the general fund of the
20 district a school bus or buses for the purpose of providing
21 transportation facilities for school children to and from school and
22 to and from all school-related activities. A purchase under this
23 section by a school district is subject to the School Purchasing Act.
24 The school board or board of education of any public school district
25 providing such transportation facilities for children attending

1 public schools shall also provide transportation without cost for
2 children who attend nonprofit private schools which are approved for
3 continued legal operation under rules and regulations established by
4 the State Board of Education pursuant to subdivision (5)(c) of
5 section 79-318. Such transportation shall be provided for only such
6 children attending nonprofit private schools who reside in a district
7 which provides transportation to public school students, and such
8 transportation shall extend only from some point on the regular
9 public school route nearest or most easily accessible to their homes
10 to and from a point on the regular public school route nearest or
11 most easily accessible to the school or schools attended by such
12 children. The governing body of such nonprofit private school, on a
13 form to be provided by the State Department of Education, shall
14 certify to the public school district the names, addresses, and days
15 of school attendance of children transported and such other
16 information useful in operating the transportation facility as may be
17 required by rules established by the State Board of Education.
18 Transportation shall be provided for nonprofit private school
19 children only at times when transportation is being provided for
20 public school children.

21 The school board or board of education of any public
22 school district may enter into a contract with a municipality or
23 county pursuant to section 13-1208. Any contract for the purchase of
24 personal property or services as defined in section 4 of this act by
25 a school district under this section is subject to the School

1 Purchasing Act.

2 Sec. 27. Section 79-610, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 79-610 When a school board or board of education employs
5 a driver to transport the pupils from their homes to the school and
6 return and to and from other school-sponsored activities by any
7 means, the board shall purchase a liability insurance policy in a
8 limit of not less than fifty thousand dollars to cover the bodily
9 injuries of one person, one hundred thousand dollars to cover bodily
10 injuries to more than one person in the same accident, and ten
11 thousand dollars to cover property damage, the premium on which shall
12 be paid out of the school district treasury. A purchase under this
13 section by a school district is subject to the School Purchasing Act.

14 Such policy shall be conditioned for the payment of any and all
15 damages on account of bodily injury or death, or injury to or
16 destruction of property that may accrue to any person or persons by
17 reason of any negligence or carelessness in transporting pupils from
18 their homes to school and return and to and from other school-
19 sponsored activities. Such policy may, in the discretion of the
20 board, contain a deductible provision for up to one thousand dollars
21 of any claim, in which event the school district shall be considered
22 a self-insurer for that amount.

23 Sec. 28. Section 79-734, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 79-734 (1) School boards and boards of education of all

1 classes of school districts shall purchase all textbooks, equipment,
2 and supplies necessary for the schools of such district. The duty to
3 make such purchases may be delegated to employees of the school
4 district. A purchase under this section by a school district is
5 subject to the School Purchasing Act.

6 (2) School boards and boards of education shall purchase
7 and loan textbooks to all children who are enrolled in kindergarten
8 to grade twelve of a public school and, upon individual request, to
9 children who are enrolled in kindergarten to grade twelve of a
10 private school which is approved for continued legal operation under
11 rules and regulations established by the State Board of Education
12 pursuant to subdivision (5)(c) of section 79-318. A purchase under
13 this section by a school district is subject to the School Purchasing
14 Act. The Legislature may appropriate funds to carry out the
15 provisions of this subsection. A school district is not obligated to
16 spend any money for the purchase and loan of textbooks to children
17 enrolled in private schools other than funds specifically
18 appropriated by the Legislature to be distributed by the State
19 Department of Education for the purpose of purchasing and loaning
20 textbooks as provided in this subsection. Textbooks loaned to
21 children enrolled in kindergarten to grade twelve of such private
22 schools shall be textbooks which are designated for use in the public
23 schools of the school district in which the child resides or the
24 school district in which the private school the child attends is
25 located. Such textbooks shall be loaned free to such children subject

1 to such rules and regulations as are or may be prescribed by such
2 school boards or boards of education. The State Department of
3 Education shall adopt and promulgate rules and regulations to carry
4 out this section. The rules and regulations shall include provisions
5 for the distribution of funds appropriated for textbooks. The rules
6 and regulations shall include a deadline for applications from school
7 districts for distribution of funds. If funds are not appropriated to
8 cover the entire cost of applications, a pro rata reduction shall be
9 made.

10 Sec. 29. Section 79-746, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 79-746 Any public school district in this state may enter
13 into an agreement with any other public school district in this state
14 to provide and share vocational educational programs, particularly
15 programs involving recent technological developments such as
16 electronics, computer science, and communications. The agreement's
17 terms shall be approved by the school board or board of education of
18 each school district participating in the agreement. The terms of the
19 agreement shall include, but not be limited to, the method of sharing
20 or hiring personnel, purchasing equipment and materials, and course
21 curriculum.

22 The State Board of Vocational Education shall be apprised
23 of all interdistrict school agreements at the time such agreements
24 are executed. Any purchase of personal property or services as
25 defined in section 4 of this act by a school district under this

1 section is subject to the School Purchasing Act.

2 Sec. 30. Section 79-10,105, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 79-10,105 The school board or board of education of any
5 public school district may enter into a lease or lease-purchase
6 agreement for the exclusive use of its individual jurisdiction for
7 such buildings or equipment as the board determines necessary. Any
8 lease-purchase of personal property or services as defined in section
9 4 of this act by a school district under this section is subject to
10 the School Purchasing Act. Such lease or lease-purchase agreements
11 may not exceed a period of seven years, except that lease-purchase
12 agreements entered into as part of an energy financing contract
13 pursuant to section 66-1065 may not exceed a period of thirty years.
14 All payments pursuant to such leases shall be made from current
15 building funds or general funds. No school district shall directly or
16 indirectly issue bonds to fund any such lease-purchase plan for a
17 capital construction project exceeding twenty-five thousand dollars
18 in costs unless it first obtains a favorable vote of the legal voters
19 pursuant to Chapter 10, article 7. This section does not prevent the
20 school board or board of education of any public school district from
21 refinancing a lease or lease-purchase agreement without a vote of the
22 legal voters for the purpose of lowering finance costs regardless of
23 whether such agreement was entered into prior to July 9, 1988. In the
24 event of a conflict between the School Purchasing Act and this
25 section, the provisions of this section control.

1 Sec. 31. Section 79-2115, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 79-2115 (1) Learning community funds distributed pursuant
4 to section 79-2103 may be used by the learning community coordinating
5 council receiving the funds for:

6 (a) The administration and operation of the learning
7 community;

8 (b) The administration, operations, and programs of
9 elementary learning centers pursuant to sections 79-2112 to 79-2114;

10 (c) Supplements for extended hours to teachers in
11 elementary schools in which at least thirty-five percent of the
12 students attending the school who reside in the attendance area of
13 such school qualify for free or reduced-price lunches;

14 (d) Transportation for parents of elementary students who
15 qualify for free or reduced-price lunches to school functions of such
16 students in elementary schools;

17 (e) Up to six social workers to provide services through
18 the elementary learning centers; and

19 (f) Pilot projects authorized pursuant to section
20 79-2104.

21 (2) Any purchase of personal property or services as
22 defined in section 4 of this act by a learning community coordinating
23 council under this section is subject to the School Purchasing Act.
24 Each learning community coordinating council shall adopt policies and
25 procedures for granting supplements for extended hours and for

1 providing transportation for parents if any such funds are to be used
2 for such purposes. An example of a pilot project that could receive
3 such funds would be a school designated as Jump Start Center focused
4 on providing intensive literacy services for elementary students with
5 low reading scores.

6 (3) Each learning community coordinating council shall
7 provide for financial audits of elementary learning centers and pilot
8 projects. A learning community coordinating council shall serve as
9 the recipient of private funds donated to support any elementary
10 learning center or pilot project receiving funds from such learning
11 community coordinating council and shall assure that the use of such
12 private funds is included in the financial audits required pursuant
13 to this section.

14 Sec. 32. Original sections 13-916, 17-159, 48-1503,
15 66-1063, 79-405, 79-407, 79-409, 79-514, 79-516, 79-601, 79-610,
16 79-734, 79-746, and 79-10,105, Reissue Revised Statutes of Nebraska,
17 and sections 79-408 and 79-2115, Revised Statutes Cumulative
18 Supplement, 2012, are repealed.