

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1401**

Introduced by Bohlke, 33

Read first time January 20, 2000

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 79-237, 79-240,  
2 79-4,101, 79-573, 79-583, 79-817, 79-1092, 85-1641,  
3 85-1642, and 85-1657, Reissue Revised Statutes of  
4 Nebraska, sections 79-214, 79-238, 79-1008.02, 79-1032,  
5 79-1125, and 79-1162, Revised Statutes Supplement, 1998,  
6 and sections 13-511, 79-442, 79-458, 79-528, 79-1003,  
7 79-1008.01, 79-1009, 79-1015.01, 79-1028, 79-1035,  
8 79-1072.01 to 79-1072.03, 79-10,124, 79-1142, and  
9 79-1155, Revised Statutes Supplement, 1999; to change  
10 provisions relating to budgets, beginner grade entrance  
11 document requirements, the enrollment option program,  
12 reorganization plan hearings, report filing dates,  
13 warrants, expenditure limitations, state aid, temporary  
14 mitigation funds, the Hardship Fund, certain site and  
15 building funds, special education, and private  
16 postsecondary career schools; to change and eliminate  
17 provisions relating to duties of the School Finance

1           Review Committee; to eliminate provisions relating to  
2           reserve teachers and the nonresident high school tuition  
3           fund; to harmonize provisions; to repeal the original  
4           sections; and to outright repeal sections 79-4,107,  
5           79-8,102 to 79-8,105, and 79-1082, Reissue Revised  
6           Statutes of Nebraska, section 79-759, Revised Statutes  
7           Supplement, 1998, and section 79-1076, Revised Statutes  
8           Supplement, 1999.  
9    Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 13-511, Revised Statutes Supplement,  
2 1999, is amended to read:

3           13-511. (1) Unless otherwise provided by law, whenever  
4 during the current fiscal year it becomes apparent to a governing  
5 body that (a) there are circumstances which could not reasonably  
6 have been anticipated at the time the budget for the current year  
7 was adopted, (b) the budget adopted violated sections 13-518 to  
8 13-522, such that the revenue of the current fiscal year for any  
9 fund thereof will be insufficient, additional expenses will be  
10 necessarily incurred, or there is a need to reduce the budget  
11 requirements to comply with sections 13-518 to 13-522, or (c) the  
12 governing body has been notified by the auditor of a mathematical  
13 or accounting error or noncompliance with the Nebraska Budget Act,  
14 such governing body may propose to revise the previously adopted  
15 budget statement and shall conduct a public hearing on such  
16 proposal.

17           (2) Notice of the time and place of the hearing shall be  
18 published at least five days prior to the date set for hearing in a  
19 newspaper of general circulation within the governing body's  
20 jurisdiction. Such published notice shall set forth (a) the time  
21 and place of the hearing, (b) the amount in dollars of additional  
22 or reduced money required and for what purpose, (c) a statement  
23 setting forth the nature of the unanticipated circumstances and, if  
24 the budget requirements are to be increased, the reasons why the  
25 previously adopted budget of expenditures cannot be reduced during  
26 the remainder of the current year to meet the need for additional  
27 money in that manner, ~~and~~ (d) a copy of the summary of the  
28 originally adopted budget previously published, and (e) a copy of

1 the summary of the proposed revised budget.

2 (3) At such hearing any taxpayer may appear or file a  
3 written statement protesting any application for additional money.  
4 A written record shall be kept of all such hearings.

5 (4) Upon conclusion of the public hearing on the proposed  
6 revised budget and approval of the proposed revised budget by the  
7 governing body, the governing body shall file with the county clerk  
8 of the county or counties in which such governing body is located,  
9 and with the auditor, a copy of the revised budget, as adopted, and  
10 shall certify the revised amount of tax to be levied. The  
11 governing body may then issue warrants in payment for expenditures  
12 authorized by the adopted revised budget. Such warrants shall be  
13 referred to as registered warrants and shall be repaid during the  
14 next fiscal year from funds derived from taxes levied therefor.

15 (5) Within thirty days after the adoption of the budget  
16 under section 13-506, a governing body may, or within thirty days  
17 after notification of an error by the auditor, a governing body  
18 shall, correct an adopted budget which contains a clerical,  
19 mathematical, or accounting error which does not affect the total  
20 amount budgeted by more than one percent or increase the amount  
21 required from property taxes. No public hearing shall be required  
22 for such a correction. After correction, the governing body shall  
23 file a copy of the corrected budget with the county clerk of the  
24 county or counties in which such governing body is located and with  
25 the auditor. The governing body may then issue warrants in payment  
26 for expenditures authorized by the budget.

27 Sec. 2. Section 79-214, Revised Statutes Supplement,  
28 1998, is amended to read:

1                   79-214. (1) Except as provided in subsection (2) of this  
2 section, the school board ~~or board of education~~ of any school  
3 district shall not admit any child into the kindergarten or  
4 beginner grade of any school of such school district unless such  
5 child has reached the age of five years or will reach such age on  
6 or before October 15 of the current year.

7                   (2) The board may admit a child who will reach the age of  
8 five between October 16 and February 1 of the current school year  
9 if the parent or guardian requests such entrance and provides an  
10 affidavit stating that (a) the child attended kindergarten in  
11 another jurisdiction in the current school year, (b) the family  
12 anticipates relocation to another jurisdiction that would allow  
13 admission within the current year, or (c) the child has  
14 demonstrated through recognized assessment procedures approved by  
15 the board that he or she is capable of carrying the work of  
16 kindergarten or the beginner grade.

17                   (3) The board may require a ~~birth certificate~~ parent or  
18 guardian of a child to supply the information required by  
19 subsection (2) of section 43-2007 prior to entrance of a child into  
20 the beginner grade and shall require evidence of a physical  
21 examination by a physician, physician assistant, or nurse  
22 practitioner within six months prior to the entrance of a child  
23 into the beginner grade and the seventh grade or, in the case of a  
24 transfer from out of state, to any other grade of the local school,  
25 except that no such physical examination shall be required of any  
26 child whose parent or guardian objects in writing. The cost of  
27 such physical examination shall be borne by the parent or guardian  
28 of each child who is examined.

1                   Sec. 3.   Section 79-237, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   79-237.   (1)(a) Except as provided in subdivision (b) of  
4 this subsection, for a student to attend school in an option school  
5 district, the student's parent or legal guardian shall submit an  
6 application to the school board ~~or board of education~~ of the option  
7 school district between September 1 and ~~January~~ March 1 for  
8 enrollment during the following and subsequent school years.  
9 Applications submitted after ~~January~~ March 1 shall be accompanied  
10 by a written release from the resident school district. The option  
11 school district shall provide the resident school district with the  
12 name of the applicant on or before ~~January 15~~ March 15. The option  
13 school district shall notify, in writing, the parent or legal  
14 guardian of the student, and the resident school district, ~~and the~~  
15 ~~State Department of Education~~ whether the application is accepted  
16 or rejected on or before April ~~1~~ 15.

17                   (b) For a student to attend school in an option school  
18 district whose resident school district has a desegregation plan  
19 adopted by the school board or ~~the board of education~~ ~~or~~ ordered by  
20 the federal court, the student's parent or legal guardian shall  
21 submit an application to the school board ~~or board of education~~ of  
22 the resident school district between September 1 and ~~January~~ March  
23 1 for enrollment during the following and subsequent school years.  
24 If the application is accepted, the resident school district shall  
25 notify, in writing, the option school district and the parent or  
26 legal guardian of the student on or before ~~February~~ April 1. If  
27 the application is rejected, the resident school district shall  
28 notify, in writing, the parent or legal guardian of the student on

1 or before ~~February~~ April 1. If the application is accepted by the  
2 resident school district, the option school district shall notify,  
3 in writing, the parent or legal guardian of the student, and the  
4 resident school district, ~~and the State Department of Education~~  
5 whether the application is accepted or rejected by the option  
6 school district on or before April ~~±~~ 15.

7 (2) Applications for students who do not actually attend  
8 the option school district may be withdrawn in good standing upon  
9 mutual agreement by both the resident and option school districts.

10 (3) No option student shall attend an option school  
11 district for less than one school year unless the student relocates  
12 to a different resident school district, completes requirements for  
13 graduation prior to the end of his or her senior year, transfers to  
14 a private or parochial school, or upon mutual agreement of the  
15 resident and option school districts cancels the enrollment option  
16 and returns to the resident school district.

17 (4) Except as provided in subsection (3) of this section,  
18 the option student shall attend the option school district until  
19 graduation unless the student relocates in a different resident  
20 school district, transfers to a private or parochial school, or  
21 chooses to return to the resident school district.

22 (5) In each case of cancellation pursuant to subsections  
23 (3) and (4) of this section, the student's parent or legal guardian  
24 shall notify the school board ~~or board of education~~ of the option  
25 school district and the resident school district and the ~~department~~  
26 State Department of Education by January 1 for automatic approval  
27 for the following school year.

28 (6) The application and cancellation forms shall be

1 prescribed and furnished by the ~~State Department of Education~~  
2 department.

3 (7) An option student who subsequently chooses to attend  
4 a private or parochial school shall be automatically accepted to  
5 return to either the resident school district or option school  
6 district upon the completion of the grade levels offered at the  
7 private or parochial school. If such student chooses to return to  
8 the option school district, the student's parent or legal guardian  
9 shall submit another application to the school board ~~or board of~~  
10 ~~education~~ of the option school district which shall be  
11 automatically accepted, and the deadlines prescribed in this  
12 section shall be waived.

13 Sec. 4. Section 79-238, Revised Statutes Supplement,  
14 1998, is amended to read:

15 79-238. (1) Except as provided in section 79-240, the  
16 school board ~~or board of education~~ of the option school district  
17 shall adopt by resolution specific standards for acceptance and  
18 rejection of applications. Standards may include the capacity of a  
19 program, class, grade level, or school building or the availability  
20 of appropriate special education programs operated by the option  
21 district. Capacity shall be determined by setting a maximum number  
22 of option students that a district will accept in any program,  
23 class, grade level, or school building, based upon available staff,  
24 facilities, projected enrollment of resident students, projected  
25 number of students with which the option district will contract  
26 based on existing contractual arrangements, and availability of  
27 appropriate special education programs. The school board ~~or board~~  
28 ~~of education~~ of the option school district may by resolution

1 declare a program, a class, or a school unavailable to option  
2 students due to lack of capacity. Standards shall not include  
3 previous academic achievement, athletic or other extracurricular  
4 ability, disabilities, proficiency in the English language, or  
5 previous disciplinary proceedings, except as provided in section  
6 79-266.01.

7 (2) A school district that has a desegregation plan  
8 adopted by the school board ~~or the board of education~~ or ordered by  
9 the federal court may adopt standards for acceptance and rejection  
10 of applications for transfer into or out of such district which are  
11 designed to make desegregation easier to maintain or improve.  
12 Desegregation is made easier to maintain or improve by standards  
13 which, considering all requests for transfer into or out of the  
14 school district received prior to the school district's application  
15 deadline established in conformity with section 79-237 or 79-240,  
16 prohibit transfers which if granted would increase the racial  
17 percentage in the school district's total enrollment of the  
18 minority group for whom the desegregation plan was ordered or  
19 adopted. Any such standards may apply to students residing within  
20 the school district who seek to transfer to a school in another  
21 school district and to students who reside in another district who  
22 seek to transfer into a school district which has a desegregation  
23 plan.

24 (3) Any option school district shall give first priority  
25 for enrollment to option students whose request for enrollment  
26 would aid the racial integration of the option school district and  
27 the resident school district and to siblings of option students,  
28 except that the option school district shall not be required to

1 accept the sibling of an option student if the district is at  
2 capacity except as provided in subsections (2) and (4) of section  
3 79-240.

4 (4) For purposes of this section, racial integration is  
5 aided if a student transfers to an option school district in which  
6 his or her race is a smaller percentage of the total student  
7 enrollment of the option school district than it is of the  
8 student's resident school district.

9 Sec. 5. Section 79-240, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 79-240. (1) Upon agreement of the school boards ~~or~~  
12 ~~boards of education~~ of the resident school district and the option  
13 school district, the deadlines for application and approval or  
14 rejection prescribed in section 79-237 may be waived.

15 (2) The application of a student who relocates in a  
16 different school district but wants to continue attending his or  
17 her original resident school district and who has been enrolled in  
18 his or her original resident school district for the immediately  
19 preceding two years shall be automatically accepted, and the  
20 deadlines prescribed in section 79-237 shall be waived.

21 (3) The application of an option student who relocates in  
22 a different school district but wants to continue attending the  
23 option school district shall be automatically accepted, and the  
24 deadlines prescribed in section 79-237 shall be waived.

25 (4) The sibling of any option student who has, before  
26 April 6, 1996, been accepted as an option student in the district  
27 in which the option student is enrolled shall be eligible to  
28 continue attending the option school district as an option student

1 as provided in section 79-234.

2 (5) If the parent or legal guardian of a student  
3 relocates in a different school district after the deadlines  
4 established in section 79-237, the parent or legal guardian shall  
5 have thirty days after the date of relocation to apply to the  
6 school board of the option school district. This subsection does  
7 not apply if the parent or legal guardian relocates in a school  
8 district that has a desegregation plan adopted by the school board  
9 or ordered by the federal court.

10 (6) A student whose resident school district or option  
11 school district dissolves and merges after the application deadline  
12 shall have sixty days after the date the dissolution or merger  
13 becomes effective to apply to another district for enrollment under  
14 the enrollment option program. Such applications shall be  
15 automatically accepted unless such acceptance exceeds the capacity  
16 limitations of the option school district.

17 Sec. 6. Section 79-442, Revised Statutes Supplement,  
18 1999, is amended to read:

19 79-442. Before any plan of reorganization is completed  
20 or approved by the state committee, it shall hold one or more  
21 public hearings. At such hearings, it shall hear any and all  
22 persons interested with respect to (1) the merits of proposed  
23 reorganization plans, (2) the value and amount of all school  
24 property of whatever nature involved in the proposed action, (3)  
25 the amount of outstanding indebtedness of each district and  
26 proposed disposition thereof, and (4) the equitable adjustment of  
27 all property, debts, and liabilities among the districts involved.  
28 The state committee shall keep a record of all hearings in the

1 formulation or approval of plans for the reorganization of school  
2 districts. Notice of such public hearings of the state committee  
3 shall be given by publication in a legal newspaper of general  
4 circulation in the county or counties in which the affected  
5 districts are located at least ten days prior to such hearing.

6 Sec. 7. Section 79-458, Revised Statutes Supplement,  
7 1999, is amended to read:

8 79-458. (1) Any freeholder or freeholders, person in  
9 possession or constructive possession as vendee pursuant to a  
10 contract of sale of the fee, holder of a school land lease under  
11 section 72-232, or entrant upon government land who has not yet  
12 received a patent therefor may file a petition with a board  
13 consisting of the county assessor, county clerk, and county  
14 treasurer, asking to have any tract or tracts of land described in  
15 the petition set off from an existing Class II or III school  
16 district in which the land is situated and attached to an  
17 accredited district which is contiguous to such tract or tracts of  
18 land if:

19 (a) The Class II or III school district has had ~~less than~~  
20 ~~sixty pupils in grades nine through twelve~~ an average daily  
21 membership in grades nine through twelve of less than sixty for the  
22 two consecutive school years immediately preceding the filing of  
23 the petition;

24 (b) The Class II or III school district has voted to  
25 exceed the maximum levy established pursuant to subdivision (2)(a)  
26 of section 77-3442, which vote is effective for the school fiscal  
27 year in which the petition is filed or for the following school  
28 fiscal year; and

1           (c) The high school is within fifteen miles on a  
2 maintained public highway or maintained public road of another high  
3 school.

4           For purposes of determining whether a tract of land is  
5 contiguous, all petitions currently being considered by the board  
6 shall be considered together as a whole.

7           (2) The petition shall state the reasons for the proposed  
8 change and shall show with reference to the land of each  
9 petitioner: (a) That (i) the land described in the petition is  
10 either owned by the petitioner or petitioners or that he, she, or  
11 they hold a school land lease under section 72-232, are in  
12 possession or constructive possession as vendee under a contract of  
13 sale of the fee simple interest, or have made an entry on  
14 government land but have not yet received a patent therefor and  
15 (ii) such tract of land includes all such contiguous land owned or  
16 controlled by each petitioner; (b) that the land described in the  
17 petition is located in a Class II or III district, the district has  
18 ~~had less than sixty pupils in grades nine through twelve~~ an average  
19 daily membership in grades nine through twelve of less than sixty  
20 for the two consecutive school years immediately preceding the  
21 filing of the petition, the district has voted to exceed the  
22 maximum levy established pursuant to subdivision (2)(a) of section  
23 77-3442 as provided in subdivision (1)(b) of this section, and the  
24 land is to be attached to an accredited school district which is  
25 contiguous to such tract or tracts of land; and (c) that such  
26 petition is approved by a majority of the members of the school  
27 board of the district to which such land is sought to be attached.

28           (3) The petition shall be verified by the oath of each

1 petitioner. Notice of the filing of the petition and of the  
2 hearing on such petition before the board shall be given at least  
3 ten days prior to the date of such hearing by one publication in a  
4 legal newspaper of general circulation in each district and by  
5 posting a notice on the outer door of the schoolhouse in each  
6 district affected thereby, and such notice shall designate the  
7 territory to be transferred. The board shall, after a public  
8 hearing on the petition and a determination that all requirements  
9 of this section have been complied with, change the boundaries of  
10 the school districts so as to set off the land described in the  
11 petition and attach it to such district pursuant to the petition.

12 (4) Petitions requesting transfers of property across  
13 county lines shall be addressed jointly to the county clerks of the  
14 counties concerned, and the petitions shall be acted upon by the  
15 county assessors, county clerks, and county treasurers of the  
16 counties involved as one board, with the county clerk of the county  
17 from which the land is sought to be transferred acting as  
18 chairperson of the board.

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

27 (6) This section does not apply to any school district  
28 located on an Indian reservation and substantially or totally

1 financed by the federal government.

2           Sec. 8.     Section 79-4,101, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           79-4,101. For purposes of sections 10-716.01, 79-402,  
5 79-422, 79-424 to 79-431, 79-449, 79-4,100 to 79-4,102, 79-611,  
6 ~~79-1076~~, and 79-1077:

7           (1) Elementary school facility means the educational  
8 facility used to provide services for students in grades  
9 kindergarten through eight in an affiliated school system;

10           (2) High school district means the Class II, III, IV, or  
11 V district which provides the high school program for an affiliated  
12 Class I district;

13           (3) High school facility means the educational facility  
14 used to provide services for students in grades nine through twelve  
15 in an affiliated school system;

16           (4) High school program means the educational services  
17 provided in an affiliated school system for grades nine through  
18 twelve; and

19           (5) High school students means students enrolled in a  
20 high school program.

21           Sec. 9.     Section 79-528, Revised Statutes Supplement,  
22 1999, is amended to read:

23           79-528.    (1) On or before July 20 in all school  
24 districts, the secretary of the school board shall file with the  
25 State Department of Education a report under oath showing the  
26 number of children from birth through twenty years of age belonging  
27 to the school district according to the census taken as provided in  
28 sections 79-524 and 79-578. The report shall identify the number

1 of boys and the number of girls in each of the respective age  
2 categories. Each Class I school district which is part of a Class  
3 VI school district offering instruction (a) in grades kindergarten  
4 through six shall report children from birth through eleven years  
5 of age and (b) in grades kindergarten through eight shall report  
6 children from birth through thirteen years of age. Each Class VI  
7 school district offering instruction (i) in grades seven through  
8 twelve shall report children who are twelve through twenty years of  
9 age and (ii) in grades nine through twelve children who are  
10 fourteen through twenty years of age. Each Class I district which  
11 has affiliated in whole or in part shall report children from birth  
12 through thirteen years of age. Each Class I district which is not  
13 in whole or in part a part of a Class VI district and which has not  
14 affiliated in whole or in part shall report children from birth  
15 through twenty years of age. Each Class II, III, IV, or V district  
16 shall report children who are fourteen through twenty years of age  
17 residing in Class I districts or portions thereof which have  
18 affiliated with such district. The board of any district  
19 neglecting to take and report the enumeration shall be liable to  
20 the school district for all school money which such district may  
21 lose by such neglect.

22 (2) On or before June 30 in all school districts, the  
23 secretary of the school board shall file with the Commissioner of  
24 Education a report under oath described as an  
25 end-of-the-school-year annual statistical summary showing (a) the  
26 number of children attending school during the year under five  
27 years of age, (b) the length of time the school has been taught  
28 during the year by a qualified teacher, (c) the length of time

1 taught by each substitute teacher, and (d) such other information  
2 as the Commissioner of Education directs.

3 (3) On or ~~before October 15 in Class I school districts~~  
4 ~~and on or~~ before November 1 in Class II, III, IV, V, and VI all  
5 school districts, the secretary of the school board shall submit to  
6 the Commissioner of Education, to be filed in his or her office, a  
7 report under oath described as the annual financial report showing  
8 (a) the amount of money received from all sources during the year  
9 and the amount of money expended by the school district during the  
10 year, (b) ~~the rate of tax levied for all school purposes,~~ ~~(c)~~ the  
11 amount of bonded indebtedness, ~~(d)~~ (c) such other information as  
12 shall be necessary to fulfill the requirements of the Tax Equity  
13 and Educational Opportunities Support Act and section 79-1114, and  
14 ~~(e)~~ (d) such other information as the Commissioner of Education  
15 directs.

16 (4) On or before October 15 of each year, the secretary  
17 of each school board shall deliver to the State Department of  
18 Education the fall school district membership report, which report  
19 shall include the number of children from birth through twenty  
20 years of age enrolled in the district on the last Friday in  
21 September of a given school year. The report shall enumerate (a)  
22 students by grade level, (b) school district levies and total  
23 assessed valuation for the current fiscal year, and (c) such other  
24 information as the Commissioner of Education directs. When any  
25 school district fails to submit its fall school district membership  
26 report by November 1, the commissioner shall, after notice to the  
27 district and an opportunity to be heard, direct that any state aid  
28 granted pursuant to the Tax Equity and Educational Opportunities

1 Support Act be withheld until such time as the report is received  
2 by the department. In addition, the commissioner shall direct the  
3 county treasurer to withhold all school money belonging to the  
4 school district until such time as the commissioner notifies the  
5 county treasurer of receipt of such report. The county treasurer  
6 shall withhold such money.

7 Sec. 10. Section 79-573, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 79-573. The president of the ~~board of education~~ school  
10 board of a Class V school district shall preside at all meetings of  
11 the board, appoint all committees whose appointment is not  
12 otherwise provided for, and sign all warrants ordered by the board  
13 ~~of education~~ to be drawn upon the ~~city~~ treasurer of the school  
14 district for school money.

15 Sec. 11. Section 79-583, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 79-583. The secretary of the ~~board of education~~ school  
18 board of a Class V school district shall be present at all meetings  
19 of the board, keep an accurate journal of the proceedings, take  
20 charge of its books and documents, countersign all warrants for  
21 school money drawn upon the ~~county~~ treasurer of the school district  
22 by order of the board, and perform all other duties the board may  
23 require. Before entering into the discharge of his or her duties  
24 the secretary of the board shall give bond in the sum of not less  
25 than ten thousand dollars, with good and sufficient sureties, and  
26 shall take and subscribe an oath or affirmation before a proper  
27 officer that he or she will support the Constitution of Nebraska  
28 and faithfully perform the duties of his or her office.

1           Sec. 12.   Section 79-817, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           79-817.   A contract for the employment of a teacher or  
4 administrator for a public school in the State of Nebraska shall be  
5 in writing.   ~~The contract form or forms to be used shall be~~  
6 ~~recommended by the State Department of Education.~~

7           Sec. 13.   Section 79-1003, Revised Statutes Supplement,  
8 1999, is amended to read:

9           79-1003.   For purposes of the Tax Equity and Educational  
10 Opportunities Support Act:

11           (1) Adjusted general fund operating expenditures means  
12 general fund operating expenditures as calculated pursuant to  
13 subdivision (21) of this section minus the transportation allowance  
14 and minus the special receipts allowance;

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

26           (3) Allocated income tax funds means the amount of  
27 assistance paid to a local system pursuant to section 79-1005.01 as  
28 adjusted by the minimum levy adjustment pursuant to section

1 79-1008.02;

2 (4) Average daily attendance of a student who resides on  
3 Indian land means average daily attendance of a student who resides  
4 on Indian land from the most recent data available on November 1  
5 preceding the school fiscal year in which aid is to be paid;

6 (5) Average daily membership means the average daily  
7 membership for grades kindergarten through twelve attributable to  
8 the local system, as provided in each district's annual statistical  
9 summary, and includes the proportionate share of students enrolled  
10 in a public school instructional program on less than a full-time  
11 basis;

12 (6) Base fiscal year means the first school fiscal year  
13 following the school fiscal year in which the reorganization or  
14 unification occurred;

15 (7) Board means the school board of each school district;

16 (8) Categorical funds means funds limited to a specific  
17 purpose by federal or state law, including, but not limited to,  
18 Title I funds, Title VI funds, federal vocational education funds,  
19 federal school lunch funds, Indian education funds, Head Start  
20 funds, funds from the Education Innovation Fund, and funds from the  
21 School Technology Fund;

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

25 (10) Department means the State Department of Education;

26 (11) District means any Class I, II, III, IV, V, or VI  
27 school district;

28 (12) Ensuing school fiscal year means the school fiscal

1 year following the current school fiscal year;

2 (13) Equalization aid means the amount of assistance  
3 calculated to be paid to a local system pursuant to sections  
4 79-1008.01 to 79-1022;

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

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

11 (16) Formula students means (a) for state aid certified  
12 pursuant to section 79-1022, the sum of fall membership from the  
13 school fiscal year immediately preceding the school fiscal year in  
14 which the aid is to be paid, multiplied by the average ratio of  
15 average daily membership to fall membership for the second school  
16 fiscal year immediately preceding the school fiscal year in which  
17 aid is to be paid and the prior two school fiscal years, and  
18 tuitioned students from the school fiscal year immediately  
19 preceding the school fiscal year in which the aid is to be paid and  
20 (b) for final calculation of state aid pursuant to section 79-1065,  
21 the sum of average daily membership and tuitioned students from the  
22 school fiscal year immediately preceding the school fiscal year in  
23 which the aid was paid;

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

28 (18) Full-day kindergarten means kindergarten offered by

1 a district for at least one thousand thirty-two instructional  
2 hours;

3 (19) General fund budget of expenditures means the total  
4 budgeted expenditures for general fund purposes as certified in the  
5 budget statement adopted pursuant to the Nebraska Budget Act,  
6 except that for purposes of the limitation imposed in section  
7 79-1023, the calculation of Class I total allowable general fund  
8 budget of expenditures minus the special education budget of  
9 expenditures pursuant to section 79-1083.03, and the calculation  
10 pursuant to subdivision (2) of section 79-1027.01, the general fund  
11 budget of expenditures does not include any special grant funds,  
12 exclusive of local matching funds, received by a district subject  
13 to the approval of the department, and does not include  
14 expenditures for repayment of funds pursuant to subsection (6) of  
15 section 79-1072.03;

16 (20) General fund expenditures means all expenditures  
17 from the general fund;

18 (21) General fund operating expenditures means the total  
19 general fund expenditures minus categorical funds, tuition paid,  
20 transportation fees paid to other districts, adult education,  
21 summer school, community services, redemption of the principal  
22 portion of general fund debt service, and transfers from other  
23 funds into the general fund for the second school fiscal year  
24 immediately preceding the school fiscal year in which aid is to be  
25 paid;

26 (22) Income tax liability means the amount of the  
27 reported income tax liability for resident individuals pursuant to  
28 the Nebraska Revenue Act of 1967 less all nonrefundable credits

1 earned and refunds made;

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

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

7 (25) Limited English proficiency student means a student  
8 with limited English proficiency from the most recent data  
9 available on November 1 of the school fiscal year preceding the  
10 school fiscal year in which aid is to be paid;

11 (26) Local system means a Class VI district and the  
12 associated Class I districts or a Class II, III, IV, or V district  
13 and any affiliated Class I districts or portions of Class I  
14 districts. The membership, expenditures, and resources of Class I  
15 districts that are affiliated with multiple high school districts  
16 will be attributed to local systems based on the percent of the  
17 Class I valuation that is affiliated with each high school  
18 district;

19 (27) Low-income child means a child under nineteen years  
20 of age living in a household having an annual adjusted gross income  
21 of fifteen thousand dollars or less for the second calendar year  
22 preceding the beginning of the school fiscal year for which aid is  
23 being calculated;

24 (28) Most recently available complete data year means the  
25 most recent single school fiscal year for which the annual  
26 financial report, fall school district membership report, annual  
27 statistical summary, Nebraska income tax liability by school  
28 district for the calendar year in which the majority of the school

1 fiscal year falls, and adjusted valuation data are available;

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

5 (30) Reorganized district means any district involved in  
6 a consolidation and currently educating students following  
7 consolidation;

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

10 (32) Special education means specially designed  
11 kindergarten through grade twelve instruction pursuant to section  
12 79-1125, and includes special education transportation;

13 (33) Special grant funds means the budgeted receipts for  
14 grants, including, but not limited to, Title I funds, Title VI  
15 funds, funds from the Education Innovation Fund, reimbursements for  
16 wards of the court, short-term borrowings including, but not  
17 limited to, registered warrants and tax anticipation notes,  
18 interfund loans, insurance settlements, and reimbursements to  
19 county government for previous overpayment. The state board shall  
20 approve a listing of grants that qualify as special grant funds; 7  
21 ~~that have been approved by the state board;~~

22 (34) Special receipts allowance means the amount of  
23 special education, state ward, and accelerated or differentiated  
24 curriculum program receipts included in local system formula  
25 resources under subdivisions (7), (8), (16), and (17) of section  
26 79-1018.01;

27 (35) State aid means the amount of assistance paid to a  
28 district pursuant to the Tax Equity and Educational Opportunities

1 Support Act;

2 (36) State board means the State Board of Education;

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

6 (38) Transportation allowance means the lesser of (a) for  
7 state aid calculated for school fiscal year 1998-99, each  
8 district's, and for state aid calculated for school fiscal year  
9 1999-00 and each school fiscal year thereafter, each local system's  
10 general fund expenditures for regular route transportation and in  
11 lieu of transportation expenditures pursuant to section 79-611 in  
12 the second school fiscal year immediately preceding the school  
13 fiscal year in which aid is to be paid, but not including special  
14 education transportation expenditures or other expenditures  
15 previously excluded from general fund operating expenditures, or  
16 (b) for state aid calculated for school fiscal year 1998-99, for  
17 each district, and for state aid calculated for school fiscal year  
18 1999-00 and each school fiscal year thereafter, for each local  
19 system, the number of miles traveled in the second school fiscal  
20 year immediately preceding the school fiscal year in which aid is  
21 to be paid by vehicles owned, leased, or contracted by the district  
22 or the districts in the local system for the purpose of regular  
23 route transportation multiplied by four hundred percent of the  
24 mileage rate established by the Department of Administrative  
25 Services pursuant to section 81-1176 as of January 1 of the most  
26 recently available complete data year added to in lieu of  
27 transportation expenditures pursuant to section 79-611 from the  
28 same data year; and

1           (39) Tuitioned students means students in kindergarten  
2 through grade twelve of the district whose tuition is paid by the  
3 district to some other district or education agency.

4           Sec. 14.       Section 79-1008.01, Revised Statutes  
5 Supplement, 1999, is amended to read:

6           79-1008.01.   (1) Except as provided in subsection (2) of  
7 this section and sections 79-1008.02 to 79-1010, each local system  
8 shall receive equalization aid in the amount that the total formula  
9 need of each local system, as determined pursuant to sections  
10 79-1007.01 and 79-1007.02, exceeds its total formula resources as  
11 determined pursuant to sections 79-1015.01 to 79-1017.01 and  
12 79-1018.01.

13           (2) Except as provided in section 79-1008.02, a local  
14 system shall not receive state aid for any school fiscal year which  
15 is less than an amount equal to the difference of eighty-five  
16 percent of the amount of aid certified in the preceding school  
17 fiscal year minus an amount equal to any increase in the adjusted  
18 valuation between the adjusted valuation used for the certification  
19 of aid in the preceding school fiscal year and the adjusted  
20 valuation used for the aid being calculated multiplied by the  
21 maximum levy pursuant to subdivision (2)(a) of section 77-3442, for  
22 the school fiscal year for which aid is being certified, without a  
23 vote pursuant to section 77-3444.

24           (3) Except as provided in subsection (2) of this section,  
25 no local system may receive equalization aid such that, when total  
26 aid is added to a levy of one dollar for state aid to be  
27 distributed in school fiscal years 1998-99 and 1999-00 or of ninety  
28 cents for state aid to be distributed in school fiscal year 2000-01

1 and each school fiscal year thereafter, multiplied by the local  
2 system's adjusted valuation divided by one hundred, would result in  
3 total local system revenue from state aid plus property tax  
4 receipts which exceeds the total of:

5 (a) State aid plus property tax receipts received by the  
6 local system during the preceding school fiscal year multiplied by  
7 the total of (i) 1.01 plus (ii) the applicable allowable growth  
8 rate for the local system calculated pursuant to section 79-1026 as  
9 determined for the school fiscal year immediately preceding the  
10 school fiscal year when aid is to be distributed plus (iii) the  
11 percentage growth in formula students from the certification of  
12 state aid for the immediately preceding school fiscal year to the  
13 formula students for the certification of state aid for the current  
14 school fiscal year, except that the percentage growth shall not be  
15 less than zero;

16 (b) Unused budget authority authorized pursuant to  
17 section 79-1030;

18 (c) The difference between the other actual receipts  
19 included in local system formula resources for the certification of  
20 state aid in the preceding school fiscal year and other actual  
21 receipts included in local system formula resources for the  
22 certification of state aid for the current school fiscal year,  
23 except that such difference shall not be less than zero; and

24 (d) The absolute value of any negative prior year  
25 adjustment pursuant to section 79-1065.

26 For local systems that have reorganized, state aid,  
27 property tax receipts, and number of formula students shall be  
28 attributed based on valuation. The revenue from property tax

1 receipts shall be calculated by multiplying the reported general  
2 fund common levy by the assessed valuation subject to the levy  
3 divided by one hundred.

4 (4) The aid that is not distributed through equalization  
5 based on subsection (3) of this section shall be distributed  
6 through this subsection. Local systems qualify for distribution  
7 under this subsection if they have nine hundred or less formula  
8 students and adjusted general fund operating expenditures per  
9 formula student less than the average for all local systems with  
10 nine hundred or less formula students. The aid shall be  
11 distributed proportionally to qualifying districts based on the  
12 dollar amount each local system's calculated state aid plus the  
13 product of a levy of one dollar and ten cents for school fiscal  
14 years 1998-99 and 1999-00 and of one dollar for school fiscal year  
15 2000-01 and each school fiscal year thereafter multiplied by the  
16 assessed valuation divided by one hundred is below ninety percent  
17 of state aid plus property tax receipts received by the local  
18 system during the preceding school fiscal year. No system shall  
19 receive aid pursuant to this subsection such that the calculated  
20 state aid plus the product of a levy of one dollar and ten cents  
21 for school fiscal years 1998-99 and 1999-00 and of one dollar for  
22 school fiscal year 2000-01 and each school fiscal year thereafter  
23 multiplied by the assessed valuation divided by one hundred is  
24 ninety percent or more of state aid plus property tax receipts  
25 received by the local system during the preceding school fiscal  
26 year. Any aid available for distribution pursuant to this  
27 subsection that is not distributed pursuant to this subsection  
28 shall be distributed as equalization aid.

1           Sec. 15.       Section 79-1008.02, Revised Statutes  
2 Supplement, 1998, is amended to read:

3           79-1008.02.       A minimum levy adjustment shall be  
4 calculated and applied to any local system that has a general fund  
5 common levy in the calendar year when aid is certified that is less  
6 than ninety percent of the maximum levy allowed pursuant to  
7 subdivision (2)(a) of section 77-3442, for the school fiscal year  
8 for which aid is being certified, without a vote pursuant to  
9 section 77-3444. To calculate the minimum levy adjustment, the  
10 department shall subtract the local system general fund common levy  
11 in the calendar year when aid is certified from ninety percent of  
12 the maximum levy allowed pursuant to subdivision (2)(a) of section  
13 77-3442, for the school fiscal year for which aid is being  
14 certified, without a vote pursuant to section 77-3444 and multiply  
15 the result by the local system's adjusted valuation divided by one  
16 hundred. The minimum levy adjustment shall be added to the formula  
17 resources of the local system for the determination of equalization  
18 aid pursuant to section 79-1008.01. If the minimum levy adjustment  
19 is greater than or equal to the allocated income tax funds  
20 calculated pursuant to section 79-1005.01, the local system shall  
21 not receive allocated income tax funds. If the minimum levy  
22 adjustment is less than the allocated income tax funds calculated  
23 pursuant to section 79-1005.01, the local system shall receive  
24 allocated income tax funds in the amount of the difference between  
25 the allocated income tax funds calculated pursuant to section  
26 79-1005.01 and the minimum levy adjustment.

27           Sec. 16.       Section 79-1009, Revised Statutes Supplement,  
28 1999, is amended to read:

1                   79-1009. (1) A district in which option students as  
2 defined in section 79-233 were actually enrolled in the school year  
3 immediately preceding the school year in which the aid is to be  
4 paid shall receive net option funding. For purposes of this  
5 section: (a) Net option funding is the sum of the products of the  
6 net number of option students in each grade range multiplied by the  
7 lesser of the statewide average cost grouping cost per student or  
8 the local system cost grouping cost per student multiplied by the  
9 weighting factor for the corresponding grade range pursuant to  
10 section 79-1007.01; and (b) net number of option students is the  
11 number of option students actually enrolled in a grade range in the  
12 current data year minus the number of students residing in the  
13 district but enrolled in another district in the same grade range  
14 in the current data year as option students as defined in section  
15 79-233. A district's net option funding shall be zero if the  
16 calculation produces a negative result. For purposes of this  
17 section, the local system for a Class I district in multiple local  
18 systems is the primary high school district's local system.

19                   The determination of the net number of option students  
20 shall be based on the number of option students enrolled in the  
21 district or enrolled in another district as of the day of the fall  
22 membership count pursuant to section 79-528, for the school fiscal  
23 year immediately preceding the school fiscal year in which the aid  
24 is to be paid. Payments made under this section shall be made from  
25 the funds to be disbursed under section 79-1005.01.

26                   (2) Payments made pursuant to this section shall go  
27 directly to the option school district but shall count as a formula  
28 resource for the local system.

1                   Sec. 17.           Section 79-1015.01, Revised Statutes  
2 Supplement, 1999, is amended to read:

3                   79-1015.01.   (1) Local system formula resources shall  
4 include local effort rate yield which shall be computed as  
5 prescribed in this section.

6                   (2) For state aid certified pursuant to section 79-1022,  
7 the local effort rate shall be the maximum levy authorized pursuant  
8 to section 77-3442, for the school fiscal year for which aid is  
9 being certified, less ten cents. For the final calculation of  
10 state aid pursuant to section 79-1065, the local effort rate shall  
11 be the rate which, when multiplied by the total adjusted valuation  
12 of all taxable property in local systems receiving equalization aid  
13 pursuant to the Tax Equity and Educational Opportunities Support  
14 Act, will produce the amount needed to support the total formula  
15 need of such local systems when added to state aid appropriated by  
16 the Legislature and other actual receipts of local systems  
17 described in section 79-1018.01. The local effort rate yield shall  
18 be determined by multiplying each local system's total adjusted  
19 valuation by the local effort rate.

20                   Sec. 18.           Section 79-1028, Revised Statutes Supplement,  
21 1999, is amended to read:

22                   79-1028.   (1) A Class II, III, IV, V, or VI school  
23 district may exceed the local system's allowable growth rate for  
24 (a) expenditures in support of a service which is the subject of an  
25 agreement or a modification of an existing agreement whether  
26 operated by one of the parties to the agreement or an independent  
27 joint entity or joint public agency, (b) expenditures to pay for  
28 repairs to infrastructure damaged by a natural disaster which is

1 declared a disaster emergency pursuant to the Emergency Management  
 2 Act, (c) expenditures to pay for judgments, except judgments or  
 3 orders from the Commission of Industrial Relations, obtained  
 4 against a school district which require or obligate a school  
 5 district to pay such judgment, to the extent such judgment is not  
 6 paid by liability insurance coverage of a school district, (d)  
 7 expenditures to pay for sums agreed to be paid by a school district  
 8 to certificated employees in exchange for a voluntary termination  
 9 of employment, or (e) expenditures to pay for lease-purchase  
 10 contracts approved on or after July 1, 1997, and before July 1,  
 11 1998, to the extent the lease payments ~~are~~ were not budgeted  
 12 expenditures for fiscal year 1997-98.

13 (2) A Class II, III, IV, V, or VI district may exceed its  
 14 applicable allowable growth rate by a specific dollar amount if the  
 15 district projects an increase in formula students in the district  
 16 over the current school year greater than twenty-five students or  
 17 greater than those listed in the schedule provided in this  
 18 subsection, whichever is less. Districts shall project increases  
 19 in formula students on forms prescribed by the department. The  
 20 ~~state board~~ department shall approve, deny, or modify the projected  
 21 increases.

22	Average daily	Projected increase
23	membership of	of formula students
24	district	by percentage
25	0 - 50	10
26	50.01 - 250	5
27	250.01 - 1,000	3
28	1,000.01 and over	1

1           The department shall compute the district's estimated  
2 allowable budget per pupil using the budgeted general fund  
3 expenditures found on the budget statement for the current school  
4 year divided by the number of formula students in the current  
5 school year and multiplied by the district's applicable allowable  
6 growth rate. The resulting allowable budget per pupil shall be  
7 multiplied by the projected formula students to arrive at the  
8 estimated budget needs for the ensuing year. The department shall  
9 allow the district to increase its general fund budget of  
10 expenditures for the ensuing school year by the amount necessary to  
11 fund the estimated budget needs of the district as computed  
12 pursuant to this subsection. On or before April 1, 1999, and on or  
13 before February 1 for each year thereafter, the department shall  
14 make needed revisions in the applicable allowable growth rate of  
15 districts which have been allowed additional growth pursuant to  
16 this subsection to reflect the actual formula students of such  
17 district and shall certify such revisions to each district.

18           (3) A Class II, III, IV, V, or VI district may exceed its  
19 applicable allowable growth rate by a specific dollar amount if  
20 construction, expansion, or alteration of district buildings will  
21 cause an increase in building operation and maintenance costs of at  
22 least five percent. The department shall document the projected  
23 increase in building operation and maintenance costs and may allow  
24 a Class II, III, IV, V, or VI district to exceed the local system's  
25 applicable allowable growth percentage by the amount necessary to  
26 fund such increased costs. The department shall compute the actual  
27 increased costs for the school year and shall, if needed, modify  
28 the local system's applicable allowable growth rate for the ensuing

1 school year.

2 (4) A Class II, III, IV, V, or VI district may exceed its  
3 applicable allowable growth rate by a specific dollar amount if the  
4 district demonstrates to the satisfaction of the ~~state board~~  
5 department that it will exceed its applicable allowable growth rate  
6 as a result of costs pursuant to the Retirement Incentive Plan  
7 authorized in section 79-855 or the Staff Development Assistance  
8 authorized in section 79-856. The department shall compute the  
9 amount by which the increased cost of such program or programs  
10 exceeds the district's applicable allowable growth rate and shall  
11 allow the district to increase its general fund expenditures by  
12 such amount for that fiscal year.

13 Sec. 19. Section 79-1032, Revised Statutes Supplement,  
14 1998, is amended to read:

15 79-1032. The School Finance Review Committee is created.  
16 The committee shall be composed of representatives of the State  
17 Department of Education, the ~~Property Tax Administrator~~ Department  
18 of Property Assessment and Taxation, the Legislative Council, and  
19 each class of district, an expert in school finance, and a member  
20 of the general public. Except for the representative of the  
21 Legislative Council, who shall be selected by the Executive Board  
22 of the Legislative Council, and the representative of the State  
23 Department of Education, who shall be appointed by the ~~State Board~~  
24 Commissioner of Education, the committee members shall be appointed  
25 by the Governor. Committee members shall serve staggered  
26 three-year terms as the Governor designates, and committee members  
27 may be reappointed for one additional term. The committee shall  
28 monitor the operation of the ~~school finance provisions of the Tax~~

1 Equity and Educational Opportunities Support Act and suggest needed  
2 revisions in the act. In particular, the committee shall review  
3 the implementation and operation of cost grouping costs per  
4 student, budget growth limitations, the equalization adjustments  
5 pursuant to section 79-1008.01, the minimum levy adjustments  
6 pursuant to section 79-1008.02, and expenditures of districts  
7 pursuant to the act. ~~The committee shall study and make specific~~  
8 ~~recommendations for harmonizing the provisions of the act with the~~  
9 ~~provisions of Laws 1990, LB 259, and the provisions of sections~~  
10 ~~79-232 to 79-246.~~

11 The committee shall ~~annually, on or before March 1, meet at~~  
12 least once annually. On or before July 1 each year, the committee  
13 shall make a report to the Governor, Legislature, and State Board  
14 of Education on the progress of the act in effectuating property  
15 tax relief, broadening the tax base for the support of the public  
16 school system, equalization of the tax burden for the support of  
17 the public school system, equalization of educational opportunities  
18 for students, and the effects of budget limitations on district  
19 spending patterns.

20 Sec. 20. Section 79-1035, Revised Statutes Supplement,  
21 1999, is amended to read:

22 79-1035. (1) The State Treasurer shall, each year on or  
23 before the third Monday in January, make a complete exhibit of all  
24 money belonging to the permanent school fund and the temporary  
25 school fund as returned to him or her from the several counties,  
26 together with the amount derived from other sources, and deliver  
27 such exhibit duly certified to the Commissioner of Education. On  
28 or before February 25, the Commissioner of Education shall make the

1 apportionment of the temporary school fund to each school district  
2 as follows: From the whole amount there shall be paid to those  
3 districts in which there are school or saline lands an amount in  
4 lieu of tax money that would be raised if such lands were taxable,  
5 to be fixed in the manner prescribed in section 79-1036; and the  
6 remainder shall be apportioned to the districts according to the  
7 pro rata enumeration of children who are five through eighteen  
8 years of age in each district last returned from the school  
9 district. The calculation of apportionment for each school fiscal  
10 year shall include any corrections to the prior school fiscal  
11 year's apportionment.

12 (2) The Commissioner of Education shall certify the amount  
13 of the apportionment of the temporary school fund as provided in  
14 subsection (1) of this section to the county treasurer and to the  
15 Director of Administrative Services. The Director of  
16 Administrative Services shall draw a warrant on the State Treasurer  
17 in favor of the various districts for the respective amounts so  
18 certified by the Commissioner of Education.

19 Sec. 21. Section 79-1072.01, Revised Statutes Supplement,  
20 1999, is amended to read:

21 79-1072.01. (1) Temporary mitigation funds shall be  
22 distributed to local systems which have property tax and state aid  
23 resources for school fiscal year 1998-99 which are less than ninety  
24 percent of their property tax and state aid resources for school  
25 fiscal year 1997-98. ~~The local system shall receive a lump-sum~~  
26 ~~payment in an amount equal to ninety percent of the school fiscal~~  
27 ~~year 1997-98 property tax and state aid resources minus the school~~  
28 ~~fiscal year 1998-99 property tax and state aid resources if the~~

1 following criteria are met:

2 (a) The local system's school fiscal year 1997-98 general  
3 fund budget of expenditures minus the special education budget of  
4 expenditures did not exceed the school fiscal year 1995-96 general  
5 fund budget of expenditures minus the special education budget of  
6 expenditures by more than two percent plus the two-year percentage  
7 growth in students for the local system; and

8 (b)(i) The local system has shown an intent to merge,  
9 consolidate, or unify with at least one specified high school  
10 district by June 1, 1999, through a public affirmative vote by the  
11 school board of the high school district in the local system with a  
12 majority of the members of the school board signing an affidavit  
13 acknowledging that the intent of the signing board member is to  
14 proceed with a merger, consolidation, or unification involving the  
15 district on the board of which they are serving. Affidavits shall  
16 be filed with the State Department of Education on or before August  
17 1, 1998. The temporary mitigation funds provided in this section  
18 shall be returned if the receiving district does not merge,  
19 consolidate, or unify prior to June 30, 2000. The temporary  
20 mitigation funds need not be returned if, prior to June 30, 2000,  
21 the receiving district is unable as determined by the State  
22 Committee for the Reorganization of School Districts to merge,  
23 consolidate, or unify despite good faith efforts because all  
24 districts with which the receiving district could reasonably be  
25 expected to merge, consolidate, or unify declined such merger,  
26 consolidation, or unification. †

27 (ii) The local system is within the sparse cost grouping or  
28 the very sparse cost grouping pursuant to section 79-1007.02;

1           (iii) The local system contains more than one hundred  
2 ~~seventy-five square miles, or~~

3           (iv) The local system is subject to loss of state aid due to  
4 ~~clerical error as defined in subsection (4) of section 79-1016.~~

5           (2) If the payments due to local systems under this section  
6 exceed the amount of funds appropriated by the Legislature, the  
7 funds shall be distributed on a pro rata basis to such local  
8 systems. Payments shall be made on or before September 15, 1998.  
9 Payments to local systems that include Class I districts shall be  
10 divided proportionally among the districts in the local system  
11 based on the weighted formula students attributed to each district  
12 in the local system for the certification of state aid to be paid  
13 in school fiscal year 1998-99. The department shall identify local  
14 systems which qualify for payments under this section and shall  
15 distribute the funds to the districts in qualifying local systems.

16           (2) ~~(3)~~ The department shall adjust payments of state aid as  
17 defined in subdivision (35) of section 79-1003 to those school  
18 districts which received temporary mitigation funds and did not  
19 merge after a final determination by the State Committee for the  
20 Reorganization of School Districts. If the total adjustment cannot  
21 be made from the funds to be provided in the ensuing school fiscal  
22 year, the adjustment shall be prorated, with additional adjustments  
23 to payments for the future school fiscal years. The department  
24 shall maintain an accurate account and a record of the reasons the  
25 adjustments were made and the amount of such adjustments.

26           ~~(4)~~ (3) For purposes of this section:

27           (a) Local system has the definition found in section  
28 ~~79-1003,~~

1           ~~(b)~~ Property tax and state aid resources for school fiscal  
 2 year 1997-98 means the sum of state aid distributed pursuant to the  
 3 Tax Equity and Educational Opportunities Support Act for school  
 4 fiscal year 1997-98 plus the product of the general fund common  
 5 levy for school fiscal year 1997-98 multiplied by the local  
 6 system's assessed valuation for 1997; and

7           ~~(e)~~ (b) Property tax and state aid resources for school  
 8 fiscal year 1998-99 means the sum of state aid certified pursuant  
 9 to the Tax Equity and Educational Opportunities Support Act for  
 10 school fiscal year 1998-99 plus the product of a levy of one dollar  
 11 and ten cents per one hundred dollars multiplied by the local  
 12 system's adjusted valuation for 1998 as certified by the Property  
 13 Tax Administrator on or before July 1, 1998. ~~+~~ and

14           ~~(d)~~ Two-year percentage growth in students means the sum of  
 15 ~~the growth in students for school fiscal year 1996-97 and school~~  
 16 ~~fiscal year 1997-98 to be calculated by applying the methodology in~~  
 17 ~~section 79-1025 as it existed on January 1, 1998, except that~~  
 18 ~~growth in students is calculated for local systems rather than~~  
 19 ~~districts and may be negative for each school fiscal year for the~~  
 20 ~~purpose of adding the growth in students together from each school~~  
 21 ~~fiscal year but the two-year percentage growth rate shall be zero~~  
 22 ~~if the sum is negative.~~

23           Sec. 22. Section 79-1072.02, Revised Statutes Supplement,  
 24 1999, is amended to read:

25           79-1072.02. The Hardship Fund is created. Money in the  
 26 fund shall be distributed to school districts pursuant to section  
 27 79-1072.03. The fund shall consist of funds appropriated by the  
 28 Legislature and funds repaid and interest paid by districts as

1 required by section 79-1072.03. Funds expended by a district to  
2 make repayments to the Hardship Fund shall be excluded from the  
3 expenditure lid limitations under sections 79-1023 to 79-1030. Any  
4 money in the fund available for investment shall be invested by the  
5 state investment officer pursuant to the Nebraska Capital Expansion  
6 Act and the Nebraska State Funds Investment Act.

7 Sec. 23. Section 79-1072.03, Revised Statutes Supplement,  
8 1999, is amended to read:

9 79-1072.03. (1) A school district may apply to the  
10 Commissioner of Education for money from the Hardship Fund if one  
11 or more unexpected discrete occurrences cause the district  
12 financial distress. Such occurrences are limited to:

13 (a) One or more new special education students or one or  
14 more new disabling conditions of a special education student  
15 causing special education expenditures to increase by at least ten  
16 percent over the prior school fiscal year's special education  
17 expenditures, but not less than three times the cost grouping cost  
18 per student in the standard cost grouping for the current school  
19 fiscal year;

20 (b) The opening of a group home causing expenditures to  
21 increase by at least ten percent over the prior school fiscal  
22 year's special education expenditures but not less than three times  
23 the cost grouping cost per student in the standard cost grouping  
24 for the current school fiscal year;

25 (c) Clerical errors by public officials, other than any  
26 person employed by or serving on the school board of the requesting  
27 district, that are affecting the funding available to the district;  
28 and

1           (d) The final calculation of state aid pursuant to section  
2 79-1065 causes a negative adjustment reducing the aid originally  
3 calculated for the district by fifty percent or more.

4           (2) To qualify for money from the fund, a district shall  
5 have:

6           (a) Budgeted reserves equal to at least ninety-eight percent  
7 of the applicable allowable reserves authorized pursuant to section  
8 79-1027 for that district for the most recent budget prior to the  
9 district becoming aware of the unexpected occurrence. Any budget  
10 amendments filed pursuant to section 13-511 after the district  
11 becomes aware of the unexpected occurrence will not be considered  
12 when determining if a district qualifies for money from the fund;  
13 and

14           (b) A current combined levy equal to or greater than  
15 ninety-five percent of the maximum levy authorized pursuant to  
16 section 77-3442 for all general and special levies subject to the  
17 limitation.

18           (3) The commissioner shall provide application forms to  
19 requesting districts which shall not be longer than one page. The  
20 forms shall require (a) the name and county district number of the  
21 school district, (b) a description of the unexpected discrete  
22 occurrence, (c) the estimated cost of the unexpected discrete  
23 occurrence for the affected school fiscal year, (d) the applicable  
24 allowable reserves authorized pursuant to section 79-1027 for the  
25 most recent budget prior to the district becoming aware of the  
26 unexpected discrete occurrence, (e) budgeted reserves pursuant to  
27 section 79-1027 for the most recent budget prior to the district  
28 becoming aware of the unexpected discrete occurrence, (f) the

1 current combined levy for all general and special levies subject to  
2 limitation pursuant to section 77-3442, and (g) the name and  
3 address of at least one financial institution utilized by the  
4 school district. The commissioner is not limited to the  
5 information contained in the application for determining whether or  
6 not to grant an application for money from the Hardship Fund.

7 (4) On or before the fifth day following receipt of an  
8 application for distribution of money from the Hardship Fund, the  
9 commissioner shall send a notice to the financial institutions  
10 listed by the school district. The notice shall (a) explain the  
11 Hardship Fund, (b) state the name of the school district that has  
12 applied for distribution of money from the Hardship Fund, (c) state  
13 the deadline for determination by the commissioner, (d) state the  
14 interest rate that the State Treasurer will use to calculate  
15 interest, and (e) explain that the financial institution may offer  
16 its services to the district as an alternative to money from the  
17 Hardship Fund. No action of a financial institution shall prevent  
18 the commissioner from approving a distribution of money from the  
19 Hardship Fund for a school district.

20 (5) The commissioner shall notify the district of his or her  
21 determination within thirty days after receiving the application.  
22 At least one representative of the school district shall be allowed  
23 an opportunity to meet with the commissioner to discuss the  
24 application prior to the commissioner's determination on the  
25 application. The commissioner may award any amount of available  
26 money from the fund he or she deems appropriate, except that the  
27 amount may not exceed the costs incurred by the district due to the  
28 occurrence. The commissioner is not required to award any money

1 under this section in response to any particular request.

2 (6) The district shall repay the fund in full in a manner to  
3 be determined by the commissioner with interest calculated by the  
4 State Treasurer at fifty percent of the rate determined pursuant to  
5 section 45-104.02 for the delinquent payment of taxes to the State  
6 of Nebraska. Funds expended by a district to make repayments to  
7 the Hardship Fund shall be excluded from the expenditure lid  
8 limitations under sections 79-1023 to 79-1030. When any school  
9 district fails to make any scheduled repayment, the commissioner  
10 shall, after notice to the district and an opportunity to be heard,  
11 direct that any state aid due the district pursuant to the Tax  
12 Equity and Educational Opportunities Support Act be withheld and  
13 transferred to the Hardship Fund until the balance of the money  
14 received by the district from the fund plus interest calculated by  
15 the State Treasurer has been repaid to the fund and shall bring  
16 such further legal action as may be necessary for the fund to be  
17 repaid with interest as calculated by the State Treasurer. If a  
18 district reorganizes or dissolves, the repayment of money received  
19 from the fund plus interest calculated by the State Treasurer shall  
20 be a liability and shall be assigned pursuant to subsection (2) of  
21 section 79-479.

22 (7) Before money is distributed to a district under this  
23 section, the president of the school board shall sign an agreement  
24 stating that:

25 (a) The costs for which money is being distributed are as  
26 accurate as can be determined at that point;

27 (b) The occurrence was unexpected; and

28 (c) The district will make required repayments to the fund.

1           (8) Up to two-thirds of the amount appropriated shall be  
2 available to be awarded for requests received under this section  
3 between July 1 and December 31 of each fiscal year. The remainder  
4 of the amount appropriated shall be available to be awarded for  
5 requests received under this section between January 1 and June 30  
6 of each fiscal year.

7           (9) Nothing in this section guarantees an award of money  
8 from the Hardship Fund to any district. Money from the fund shall  
9 be paid as a lump sum to each district receiving funds and shall be  
10 limited to a one-year impact per unexpected discrete occurrence.

11           (10) The State Department of Education shall remit funds  
12 repaid by school districts as required by this section to the State  
13 Treasurer for credit to the Hardship Fund.

14           (11) The Commissioner of Education shall report to the  
15 Education Committee and the Appropriations Committee of the  
16 Legislature and the Governor on or before December 1 of each year  
17 for the preceding fiscal year. The report shall include (a) a list  
18 of all applications with the amounts requested and a description of  
19 the unexpected discrete occurrence that caused the district  
20 financial distress and (b) a list of the districts receiving  
21 hardship funds, including the amount awarded and repayment  
22 conditions.

23           Sec. 24. Section 79-1092, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           79-1092. All money arising from any source whatever which  
26 is payable to the school fund of any city of the primary class or  
27 city of the first class which may become a city of the metropolitan  
28 class, or any money which is required to be set apart by the

1 treasurer of any such city for the support and maintenance of any  
 2 school in such city, shall be payable to the treasurer of the ~~board~~  
 3 ~~of education~~ school district and shall be used only for the  
 4 purposes specified in sections 79-409, 79-476, 79-522, 79-535 to  
 5 79-537, 79-552, 79-561, 79-562, 79-567, 79-573, 79-574, 79-583,  
 6 79-584, 79-592, 79-593, ~~79-1082~~, 79-1086, 79-1087, 79-1092, and  
 7 79-10,126.

8           Sec. 25.     Section 79-10,124, Revised Statutes Supplement,  
 9 1999, is amended to read:

10           79-10,124. The amount of special tax levied under sections  
 11 79-10,122 to 79-10,125 shall not exceed five cents on each one  
 12 hundred dollars upon the taxable value of all taxable property in  
 13 the school district above the amount allowed by law for general  
 14 school purposes when combined with the tax levied by a Class I  
 15 district under section 79-10,110, and the total amount voted for  
 16 the period of years shall not exceed five percent of the taxable  
 17 valuation of the school district.

18           For Class I districts, the school board of the primary high  
 19 school district designated pursuant to section 79-1083.02 must  
 20 approve ~~any use of the special tax levied~~ the tax dollars requested  
 21 under sections 79-10,110 and 79-10,122 to 79-10,125 and provide  
 22 written notification of such approval to the Class I district  
 23 school board.     The Class I district shall attach a copy of the  
 24 written notification of such approval to its budget document.

25           Sec. 26.     Section 79-1125, Revised Statutes Supplement,  
 26 1998, is amended to read:

27           79-1125.     Special education means specially designed  
 28 instruction, at no cost to parents or guardians, to meet the unique

1 needs of a child with a disability, including classroom  
2 instruction, instruction in physical education, home instruction,  
3 and instruction in hospitals and institutions. Special education  
4 includes speech-language pathology, occupational therapy, and  
5 physical therapy if the speech-language pathology or occupational  
6 or physical therapy consists of specially designed instruction, at  
7 no cost to the parents or guardians, to meet the unique needs of a  
8 child with a disability.

9           Sec. 27.     Section 79-1142, Revised Statutes Supplement,  
10 1999, is amended to read:

11           79-1142. (1) Level I services refers to services provided  
12 to children with disabilities who require an aggregate of not more  
13 than three hours per week of special education services and support  
14 services and includes all administrative, diagnostic, consultative,  
15 and vocational-adjustment counselor services.     Support services  
16 means preventive services for students not identified or verified  
17 as having a disability pursuant to sections 79-1118.01 and 79-1138  
18 but who demonstrate a need for specially designed assistance in  
19 order to benefit from the school's general education curriculum.  
20 The total allowable reimbursable cost for support services shall  
21 not exceed a percentage, established by the State Board of  
22 Education, of the school district's or approved cooperative's total  
23 allowable reimbursable cost for all special education programs and  
24 support services. The percentage established by the State Board of  
25 Education for support services shall not exceed ten percent.

26           (2) For special education and support services provided in  
27 each school fiscal year, the State Department of Education shall  
28 reimburse each school district in the following school fiscal year

1 a pro rata amount determined by the ~~State Board of Education~~  
2 department from appropriations for special education approved by  
3 the Legislature and based on allowable excess costs for all special  
4 education programs and support services.

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

22 Sec. 28. Section 79-1155, Revised Statutes Supplement,  
23 1999, is amended to read:

24 79-1155. All school boards shall report annually on a date  
25 prescribed by the State Department of Education to the department  
26 on forms provided by the department (1) plans for special education  
27 programs and (2) budget information for special education programs  
28 and support services. Cooperatives of school districts or

1 educational service units applying for grants or reimbursement for  
2 programs pursuant to section 79-1132, 79-1142, or 79-1144 shall  
3 also report unified plans and budget information pursuant to this  
4 section. The plans and budget forms shall conform to reporting  
5 requirements provided in section 79-1156. The ~~State Department of~~  
6 ~~Education~~ department shall review and take action to approve,  
7 approve with modifications, or disapprove the plans and budgets for  
8 special education programs of the school district, cooperative of  
9 school districts, or educational service unit. Supplementary  
10 amendments to any program plans and budgets previously approved by  
11 the ~~State Board of Education~~ department may be submitted on dates  
12 specified by the department during the same school year and shall  
13 be subject to the same review and approval as the initial plans and  
14 budgets. The ~~State Board of Education~~ department shall approve,  
15 approve with modifications, or disapprove all supplementary  
16 amendments to program plans and budget requests. All final  
17 financial reports on special education and support services costs  
18 shall be reported to the department by October 31 of each year for  
19 the preceding school year on forms prescribed by the department.  
20 Any program that provides residential care shall show the costs of  
21 such care separately from the costs of the education program.

22 Sec. 29. Section 79-1162, Revised Statutes Supplement,  
23 1998, is amended to read:

24 79-1162. A parent, guardian, competent student of the age  
25 of majority, or school district may initiate a hearing on matters  
26 related to the initiation, change, or termination or the refusal to  
27 initiate, change, or terminate the identification, evaluation, or  
28 educational placement of a child with a disability or the provision

1 of a free appropriate public education or records relating thereto.  
 2 A copy of the procedures specified in rules and regulations of the  
 3 State Department of Education for complaints and hearings under  
 4 this section shall be provided by school districts to all parents  
 5 and guardians of children with disabilities who are receiving  
 6 services ~~on September 6, 1985, and, thereafter,~~ and to all parents  
 7 and guardians of children with disabilities upon initial  
 8 consideration of the provision of services for their children with  
 9 disabilities. Such hearing shall be initiated by filing a petition  
 10 with the State Department of Education. ~~A parent, guardian, or~~  
 11 ~~competent student of the age of majority shall not be entitled to~~  
 12 ~~reimbursement for any expenses incurred more than sixty days prior~~  
 13 ~~to the filing of the petition.~~

14 Sec. 30. Section 85-1641, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 85-1641. (1) Until the Tuition Recovery Cash Fund initially  
 17 reaches the minimum fund level prescribed in section 85-1656, the  
 18 surety bond or ~~agreement~~ other security agreement of a school  
 19 provided for in section 85-1639 shall cover the period of the  
 20 authorization to operate, ~~or the agent's permit, as appropriate,~~  
 21 except when a surety is released as provided in this section. The  
 22 surety bond of an agent provided for in section 85-1640 shall cover  
 23 the period of such agent's permit, except when a surety is released  
 24 as provided in this section.

25 (2) A surety on any bond or agreement filed under section  
 26 85-1639 or 85-1640 may be released ~~therefrom~~ after such surety  
 27 serves written notice thereof on the department thirty days prior  
 28 to the release. Such release shall not discharge or otherwise

1 affect any claim ~~theretofore or thereafter~~ previously or  
2 subsequently filed by a student or enrollee or his or her parent or  
3 guardian for loss or damage resulting from any act or practice  
4 which is a violation of the Private Postsecondary Career School Act  
5 alleged to have occurred while the bond or agreement was in effect  
6 or for a school's ceasing operations during the term for which  
7 tuition has been paid while the bond or agreement was in force.

8 Sec. 31. Section 85-1642, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 85-1642. ~~Until the Tuition Recovery Cash Fund initially~~  
11 ~~reaches the minimum fund level prescribed in section 85-1656~~ Except  
12 as provided in this section, authorization to operate and an  
13 agent's permit shall be suspended by operation of law when the  
14 school or agent is no longer covered by a surety bond or agreement  
15 as required by sections 85-1639 and 85-1640. The commissioner  
16 shall cause the school or agent, or both, to receive at least  
17 thirty days' written notice prior to the release of the surety to  
18 the effect that the authorization or permit shall be suspended by  
19 operation of law until another surety bond or agreement is filed in  
20 the same manner and like amount as the bond or agreement being  
21 terminated. After the Tuition Recovery Cash Fund initially reaches  
22 ~~such~~ the minimum fund level prescribed in section 85-1656, the  
23 surety bond or agreement provided for in section 85-1639 shall no  
24 longer be required to be kept in force by any private postsecondary  
25 career school contributing to the fund except as specified for any  
26 private postsecondary career school applying for authorization to  
27 operate from the commissioner or any other agency after September  
28 9, 1993.

1           Sec. 32.     Section 85-1657, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           85-1657.     Any student injured by the termination of  
4 operations by a private postsecondary career school on or after  
5 September 9, 1993, may submit a claim against the Tuition Recovery  
6 Cash Fund. ~~for tuition and fees paid to the school for which~~  
7 ~~classes were not offered and no refunds made.~~ The board shall  
8 adopt rules and regulations for the evaluation and approval of  
9 claims made against the fund and shall provide for payments made  
10 from the fund. No claim shall be allowed unless it is submitted  
11 within one year after the school terminates operations and there  
12 are sufficient funds available in the fund to pay the claim.

13           For purposes of this section, a student injured by the  
14 termination of operations by a private postsecondary career school  
15 means (1) a student who has paid tuition and fees to the school for  
16 which classes were not offered and no refunds were made or (2) a  
17 student who ceased to be enrolled in classes at a school while the  
18 school was in operation and to whom a refund of unearned tuition  
19 and fees became due from the school after the school terminated  
20 operations and no refunds were made within the required time period  
21 following the student's withdrawal from the school under the rules  
22 and regulations established by the department.

23           Sec. 33.     Original sections 79-237, 79-240, 79-4,101,  
24 79-573, 79-583, 79-817, 79-1092, 85-1641, 85-1642, and 85-1657,  
25 Reissue Revised Statutes of Nebraska, sections 79-214, 79-238,  
26 79-1008.02, 79-1032, 79-1125, and 79-1162, Revised Statutes  
27 Supplement, 1998, and sections 13-511, 79-442, 79-458, 79-528,  
28 79-1003, 79-1008.01, 79-1009, 79-1015.01, 79-1028, 79-1035,

1 79-1072.01 to 79-1072.03, 79-10,124, 79-1142, and 79-1155, Revised  
2 Statutes Supplement, 1999, are repealed.

3           Sec. 34.     The following sections are outright repealed:  
4 Sections 79-4,107, 79-8,102 to 79-8,105,     and 79-1082, Reissue  
5 Revised Statutes of Nebraska, section 79-759, Revised Statutes  
6 Supplement, 1998,     and section 79-1076, Revised Statutes  
7 Supplement, 1999.