

LEGISLATIVE BILL 603

Approved by the Governor May 30, 2007

Introduced by Raikes, 25

FOR AN ACT relating to education; to amend sections 32-515, 32-607, 79-1201, 79-1201.01, 79-1208, 79-1211, 79-1212, 79-1217, and 79-1241, Reissue Revised Statutes of Nebraska, sections 13-503, 79-1012, 79-1018.01, 79-1103, 79-1223, 79-1233, 79-1241.01, 79-1241.02, 79-1243, 79-1304, 79-1334, 79-1335, 79-1336, 79-1337, 84-304, 86-515, and 86-5,100, Revised Statutes Cumulative Supplement, 2006, and section 79-1028, Revised Statutes Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422; to change provisions relating to election of board members for educational service units; to provide a formula and change provisions relating to core services and technology infrastructure funding; to define terms; to change provisions relating to distance education, unit boundaries, and board membership; to provide for election districts; to eliminate and create councils; to provide a duty for the Auditor of Public Accounts; to change provisions relating to the Early Childhood Education Grant Program; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 79-1332 and 79-1333, Revised Statutes Cumulative Supplement, 2006; and to declare an emergency.

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

Section 1. Section 13-503, Revised Statutes Cumulative Supplement, 2006, is amended to read:

13-503 For purposes of the Nebraska Budget Act, unless the context otherwise requires:

(1) Governing body shall mean the governing body of any county agricultural society, elected county fair board, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, bridge commission created pursuant to section 39-868, cemetery district, city, village, municipal county, community college, community redevelopment authority, county, drainage or levee district, educational service unit, rural or suburban fire protection district, historical society, hospital district, irrigation district, learning community, natural resources district, nonprofit county historical association or society for which a tax is levied under subsection (1) of section 23-355.01, public building commission, railroad transportation safety district, reclamation district, road improvement district, rural water district, school district, sanitary and improvement district, township, offstreet parking district, transit authority, metropolitan utilities district, Educational Service Unit Coordinating Council, and political subdivision with the authority to have a property tax request, with the authority to levy a toll, or that receives state aid;

(2) Levying board shall mean any governing body which has the power or duty to levy a tax;

(3) Fiscal year shall mean the twelve-month period used by each governing body in determining and carrying on its financial and taxing affairs;

(4) Tax shall mean any general or special tax levied against persons, property, or business for public purposes as provided by law but shall not include any special assessment;

(5) Auditor shall mean the Auditor of Public Accounts;

(6) Cash reserve shall mean funds required for the period before revenue would become available for expenditure but shall not include funds held in any special reserve fund;

(7) Public funds shall mean all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes;

(8) Adopted budget statement shall mean a proposed budget statement which has been adopted or amended and adopted as provided in section 13-506. Such term shall include additions, if any, to an adopted budget statement made by a revised budget which has been adopted as provided in section 13-511;

(9) Special reserve fund shall mean any special fund set aside by the governing body for a particular purpose and not available for expenditure for any other purpose. Funds created for (a) the retirement of bonded

indebtedness, (b) the funding of employee pension plans, (c) the purposes of the Political Subdivisions Self-Funding Benefits Act, (d) the purposes of the Local Option Municipal Economic Development Act, (e) voter-approved sinking funds, (f) statutorily authorized sinking funds, or (g) the distribution of property tax receipts by a learning community to member school districts shall be considered special reserve funds;

(10) Biennial period shall mean the two fiscal years comprising a biennium commencing in odd-numbered years used by a city in determining and carrying on its financial and taxing affairs; and

(11) Biennial budget shall mean a budget by a city of the primary or metropolitan class that adopts a charter provision providing for a biennial period to determine and carry on the city's financial and taxing affairs.

Sec. 2. Section 32-515, Reissue Revised Statutes of Nebraska, is amended to read:

32-515 Candidates for the boards of educational service units, except boards of educational service units with only one member school district, shall be elected to represent the geographical boundaries of the educational service unit as provided in section 79-1217. The terms of members elected in 2008 to represent odd-numbered election districts established pursuant to section 15 of this act shall expire in 2011. The terms of members elected in 2008 to represent even-numbered election districts established under such section shall expire in 2013. Successors to the members elected in 2008 initially appointed to the board shall be elected for terms of four years. County candidates shall file their written applications with the election commissioner or county clerk no later than the deadline prescribed in subsection (2) of section 32-606. Candidates for the position of members at large shall file their written applications with the Secretary of State no later than the deadline prescribed in subsection (2) of section 32-606. Candidates for the board of educational service units shall meet the qualifications found in ~~such~~ section 79-1217. Board members shall be elected on the nonpartisan ballot.

Sec. 3. Section 32-607, Reissue Revised Statutes of Nebraska, is amended to read:

32-607 All candidate filing forms shall contain the following statement: I hereby swear that I will abide by the laws of the State of Nebraska regarding the results of the primary and general elections, that I am a registered voter and qualified to be elected, and that I will serve if elected. Candidate filing forms shall be filed with the following filing officers:

(1) For candidates for national, state, or congressional office, directors of public power and irrigation districts, directors of reclamation districts, directors of natural resources districts, members at large of the boards of educational service units, members of governing boards of community colleges, delegates to national conventions, and other offices filled by election held in more than one county and judges desiring retention, in the office of the Secretary of State;

(2) For officers elected within a county, in the office of the election commissioner or county clerk. If the candidate is not a resident of the county, he or she shall submit a certificate of registration obtained under section 32-316 with the candidate filing form;

~~(3) For representatives from the county in which they reside on the boards of educational service units, in the office of the election commissioner or county clerk;~~

~~(4)~~ (3) For officers in school districts which include land in adjoining counties, in the office of the election commissioner or county clerk of the county in which the greatest number of registered voters entitled to vote for the officers reside. If the candidate is not a resident of the county, he or she shall submit a certificate of registration obtained under section 32-316 with the candidate filing form; and

~~(5)~~ (4) For city or village officers, in the office of the city or village clerk, except that in the case of joint elections, the filing may be either in the office of the election commissioner or county clerk or in the office of the city or village clerk with deputized personnel. When the city or village clerk is deputized to take filings, he or she shall return all filings to the office of the election commissioner or county clerk by the end of the next business day following the filing deadline.

Sec. 4. Section 79-1012, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1012 The School District Reorganization Fund is created. The fund shall be administered by the department. The fund shall consist of money transferred from the Education Innovation Fund and shall be used to provide payments to reorganized school districts pursuant to section 79-1011 through

June 30, 2008, and to provide temporary funding for aggregation routing equipment and network transport costs for Network Nebraska pursuant to section 34 of this act through June 30, 2010. Any money in excess of the difference of two hundred thousand dollars minus any amount previously used to provide temporary funding for aggregation routing equipment and network transport costs for Network Nebraska pursuant to section 34 of this act remaining in the fund on July 1, 2008, shall be transferred to the Education Innovation Fund on such date. Any money remaining in the ~~fund~~ School District Reorganization Fund on July 1, 2008, ~~2010~~, shall be transferred to the ~~General~~ Education Innovation Fund on such date. Any money in the School District Reorganization Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 5. Section 79-1018.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1018.01 Local system formula resources include other actual receipts available for the funding of general fund operating expenditures as determined by the department for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, except that receipts from the Community Improvements Cash Fund, receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act, and, beginning with the calculation of state aid to be distributed in school fiscal year 2004-05, tuition receipts from converted contracts shall not be included. Other actual receipts include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Tuition receipts from individuals, other districts, or any other source except receipts derived from adult education, tuition receipts from converted contracts, and receipts from educational entities as defined in section ~~79-1332~~ 79-1201.01 for providing distance education courses through the Distance Education Council until July 1, 2008, and the Educational Service Unit Coordinating Council on and after July 1, 2008, to such educational entities;
- (4) Transportation receipts;
- (5) Interest on investments;
- (6) Other miscellaneous noncategorical local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (7) Special education receipts, excluding grant funds received pursuant to section 9-812;
- (8) Special education receipts and non-special education receipts from the state for wards of the court and wards of the state;
- (9) All receipts from the temporary school fund. Beginning with the calculation of aid for school fiscal year 2002-03 and each school fiscal year thereafter, receipts from the temporary school fund shall only include receipts pursuant to section 79-1035 and the receipt of funds pursuant to section 79-1036 for property leased for a public purpose as set forth in subdivision (1)(a) of section 77-202;
- (10) Motor vehicle tax receipts received on or after January 1, 1998;
- (11) Pro rata motor vehicle license fee receipts;
- (12) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;
- (13) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
- (14) All other noncategorical federal receipts;
- (15) All receipts pursuant to the enrollment option program under sections 79-232 to 79-246;
- (16) Receipts under the federal Medicare Catastrophic Coverage Act of 1988, as such act existed on May 8, 2001, as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the local system would have otherwise received pursuant to the Special Education Act; and
- (17) Receipts for accelerated or differentiated curriculum programs pursuant to sections 79-1106 to 79-1108.03.

Sec. 6. Section 79-1028, Revised Statutes Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422, is amended to read:

79-1028 (1) A Class II, III, IV, V, or VI school district may exceed its applicable allowable growth rate for (a) expenditures in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity or joint public agency, (b) expenditures

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

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

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

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1, the department shall make available to districts which have been allowed additional growth pursuant to this subsection the necessary document to recalculate the actual formula students of such district. Such document shall be filed with the department under subsection (1) of section 79-1024.

(3) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a Class II, III, IV, V, or VI district to exceed its applicable allowable growth rate by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall notify the district on or before July 1 of the recovery of the additional growth pursuant to this subsection.

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

(5) A Class II, III, IV, or V district may exceed its applicable allowable growth rate by the specific dollar amount of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011.

(6) A Class II, III, IV, V, or VI district may exceed its applicable

allowable growth rate by a specific dollar amount in any year for which the state aid calculation for the local system includes students in the qualified early childhood education fall membership of the district for the first time or for a year in which an early childhood education program of the district is receiving an expansion grant. The department shall compute the amount by which the district may exceed the district's applicable allowable growth rate by multiplying the cost grouping cost per student for the applicable cost grouping by the district's adjusted formula students attributed to early childhood education programs if students are included in the district's qualified early childhood education fall membership for the first time or by the district's adjusted formula students attributed to such early childhood education programs minus the district's adjusted formula students attributed to such early childhood education programs for the prior school fiscal year if a program is receiving an expansion grant in the school fiscal year for which the fall membership is measured. The department shall allow the district to increase its general fund expenditures by such amount for such school fiscal year.

(7) For school fiscal year 2005-06, a Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount not to exceed seventy-four hundredths percent of the amount budgeted for employee salaries for such school fiscal year. For school fiscal year 2006-07, a Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount not to exceed fifty-nine hundredths percent of the amount budgeted for employee salaries for such school fiscal year.

(8) A Class II, III, IV, or V district that is a member of a learning community may exceed its applicable allowable growth rate for the first school fiscal year in which the school district will be a member of a learning community for the full school fiscal year by an amount equal to anticipated increases in transportation expenditures necessary to meet the requirements of subsection (2) of section 79-611 as approved by the department. The department shall approve, deny, or modify the amount allowed for anticipated increases in transportation expenditures. The department shall compute the actual increase in transportation expenditures necessary to meet the requirements of subsection (2) of section 79-611 for such school fiscal year and shall, if needed, modify the district's applicable allowable growth rate for the ensuing school fiscal year.

(9) For school fiscal year 2008-09, a Class II, III, IV, or V district may exceed its applicable allowable growth rate by a specific dollar amount if the sum of the poverty allowance, elementary class size allowance, focus school and program allowance, and limited English proficiency allowance for the school district for school fiscal year 2008-09 exceeds the poverty weightings plus limited English proficiency weightings multiplied by the cost grouping cost per student for the school district for school fiscal year 2007-08. The department shall compute the amount by which the district may exceed the applicable allowable growth rate by subtracting the product of the sum of the poverty weightings and limited English proficiency weightings for school fiscal year 2007-08 multiplied by the average formula cost per student in the school district's cost grouping for school fiscal year 2007-08 from the sum of the school fiscal year 2008-09 poverty allowance, elementary class size allowance, focus school and program allowance, and limited English proficiency allowance for the school district. The department shall allow the district to increase its general fund expenditures by such amount for school fiscal year 2008-09.

(10) For school fiscal year 2009-10 and each school fiscal year thereafter, a Class II, III, IV, or V district may exceed its applicable allowable growth rate by a specific dollar amount if the sum of the poverty allowance, elementary class size allowance, focus school and program allowance, and limited English proficiency allowance for the school district has grown at a rate higher than the applicable allowable growth rate of the district. The department shall compute the amount by which the district may exceed the applicable allowable growth rate by subtracting the product of the sum of the poverty allowance, elementary class size allowance, focus school and program allowance, and limited English proficiency allowance for the immediately preceding school fiscal year multiplied by the sum of one plus the applicable allowable growth rate to be exceeded from the sum of the poverty allowance, elementary class size allowance, focus school and program allowance, and limited English proficiency allowance for the district for the school fiscal year for which the applicable allowable growth rate would be exceeded. The department shall allow the district to increase its general fund expenditures by such amount for the applicable school fiscal year.

(11) A Class II, III, IV, or V school district may exceed its

applicable allowable growth rate by a specific dollar amount not to exceed the amount received during such school fiscal year from educational entities as defined in section ~~79-1332~~ 79-1201.01 for providing distance education courses through the Distance Education Council until July 1, 2008, and the Educational Service Unit Coordinating Council on and after July 1, 2008, to such educational entities.

(12) A Class II, III, IV, or V school district may exceed its applicable allowable growth rate for school fiscal year 2007-08 by a specific dollar amount equal to the amount paid in school fiscal year 2006-07 to any distance education consortium in which the school district was participating pursuant to an interlocal agreement.

Sec. 7. Section 79-1103, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1103 (1) (a) The State Department of Education shall establish and administer the Early Childhood Education Grant Program. Upon the effective date of an endowment agreement, administration of the Early Childhood Education Grant Program with respect to programs for children from birth to age three shall transfer to the board of trustees. If there is no endowment agreement in effect, the department shall request proposals in accordance with this section for all early childhood education programs from school districts, individually or in cooperation with other school districts or educational service units, working in cooperation with existing nonpublic programs which meet the requirements of subsection (2) of section 79-1104. If there is an endowment agreement in effect, the board of trustees shall administer the Early Childhood Education Grant Program with respect to programs for children from birth to age three pursuant to section 79-1104.02 and the department shall continue to administer the Early Childhood Education Grant Program with respect to other prekindergarten programs pursuant to sections 79-1101 to 79-1104.05. All administrative procedures of the board of trustees, including, but not limited to, rules, grant applications, and funding mechanisms, shall harmonize with those established by the department for other prekindergarten programs.

(b) The first priority shall be for (i) continuation grants for programs that received grants in the prior school fiscal year and for which the state aid calculation pursuant to the Tax Equity and Educational Opportunities Support Act does not include early childhood education students, in an amount equal to the amount of such grant, except that if the grant was a first-year grant the amount shall be reduced by thirty-three percent, and (ii) continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, in an amount equal to the amount of the grant for the school fiscal year prior to the first school fiscal year for which early childhood education students were included in the state aid calculation for the school district's local system minus the calculated state aid amount, and (iii) for school fiscal year 2007-08, continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, but such state aid calculation does not result in the school district receiving any equalization aid, in an amount equal to the amount of the grant received in school fiscal year 2006-07. The calculated state aid amount shall be calculated by multiplying the cost grouping cost per student for the school district's local system cost grouping by the adjusted formula students attributed to the early childhood education programs pursuant to the Tax Equity and Educational Opportunities Support Act.

(c) The second priority shall be for new grants and expansion grants for programs that will serve at-risk children who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half of the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half of the budget for expanding the capacity of the program to serve additional children.

(d) The third priority shall be for new grants, expansion grants, and continuation grants for programs serving children younger than those who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half the budget for expanding the capacity of the program to serve additional children. Continuation grants under this priority may be given annually in an amount up to one-half the total budget of the program per year minus any continuation grants received under the first priority.

(e) Programs serving children who will be eligible to attend kindergarten the following school year shall be accounted for separately for grant purposes from programs serving younger children, but the two types

of programs may be combined within the same classroom to serve multi-age children. Programs that receive grants for school fiscal years prior to school fiscal year 2005-06 to serve both children who will be eligible to attend kindergarten the following school year and younger children shall account for the two types of programs separately for grant purposes beginning with school year 2005-06 and shall be deemed to have received grants prior to school fiscal year 2005-06 for each year that grants were received for the types of programs representing the age groups of the children served.

(2) Each program proposal which is approved by the department shall include (a) a planning period, (b) an agreement to participate in periodic evaluations of the program to be specified by the department, (c) evidence that the program will be coordinated or contracted with existing programs, including those listed in subdivision (d) of this subsection and nonpublic programs which meet the requirements of subsection (2) of section 79-1104, (d) a plan to coordinate and use a combination of local, state, and federal funding sources, including, but not limited to, programs for children with disabilities below five years of age funded through the Special Education Act, the Early Intervention Act, funds available through the flexible funding provisions under the Special Education Act, the federal Head Start program, 42 U.S.C. 9831 et seq., the federal Even Start Family Literacy Program, 20 U.S.C. 6361 et seq., Title I of the federal Improving America's Schools Act of 1994, 20 U.S.C. 6301 et seq., and child care assistance through the Department of Health and Human Services, (e) a plan to use sliding fee scales and the funding sources included in subdivision (d) of this subsection to maximize the participation of economically and categorically diverse groups and to ensure that participating children and families have access to comprehensive services, (f) the establishment of an advisory body which includes families and community members, (g) the utilization of appropriately qualified staff, (h) an appropriate child-to-staff ratio, (i) appropriate group size, (j) compliance with minimum health and safety standards, (k) appropriate facility size and equipment, (l) a strong family development and support component recognizing the central role of parents in their children's development, (m) developmentally and culturally appropriate curriculum, practices, and assessment, (n) sensitivity to the economic and logistical needs and circumstances of families in the provision of services, (o) integration of children of diverse social and economic characteristics, (p) a sound evaluation component, including at least one objective measure of child performance and progress, (q) continuity with programs in kindergarten and elementary grades, (r) instructional hours that are similar to or less than the instructional hours for kindergarten, (s) well-defined language development and early literacy emphasis, including the involvement of parents in family literacy activities, (t) a plan for ongoing professional development of staff, and (u) inclusion of children with disabilities as defined in the Special Education Act, all as specified by rules and regulations of the department in accordance with sound early childhood educational practice.

(3) The department shall make an effort to fund programs widely distributed across the state in both rural and urban areas.

(4) A report evaluating the programs shall be made to the State Board of Education and the Legislature by January 1 of each odd-numbered year. Up to five percent of the total appropriation for the Early Childhood Education Grant Program may be reserved by the department for evaluation and technical assistance for the programs.

(5) Programs may be approved for purposes of the Tax Equity and Educational Opportunities Support Act, expansion grants, and continuation grants on the submission of a continuation plan demonstrating that the program will continue to meet the requirements of subsection (2) of this section and a proposed operating budget demonstrating that the program will continue to receive resources from other sources equal to or greater than the sum of any grant received pursuant to this section for the prior school year plus any calculated state aid as calculated pursuant to subsection (1) of this section for the prior school year.

(6) The State Board of Education may adopt and promulgate rules and regulations to implement the Early Childhood Education Grant Program, except that if there is an endowment agreement in effect, the board of trustees shall recommend any rules and regulations relating specifically to the Early Childhood Education Grant Program with respect to programs for children from birth to age three. It is the intent of the Legislature that the rules and regulations for programs for children from birth to age three be consistent to the greatest extent possible with those established for other prekindergarten programs.

Sec. 8. Section 79-1201, Reissue Revised Statutes of Nebraska, is amended to read:

79-1201 Sections 79-1201 to 79-1244 and sections 10, 15 to 20, and 24 of this act shall be known and may be cited as the Educational Service Units Act.

Sec. 9. Section 79-1201.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1201.01 For purposes of the Educational Service Units Act and sections 79-1336 and 79-1337:

(1) Distance education course means a course with at least one student in any of grades kindergarten through twelve who is in a different location than the teacher and taught by a teacher employed by an educational entity utilizing either two-way interactive video or the Internet without two-way interactive video. Distance education course includes a dual-enrollment course with at least one student who is in a different location than the teacher and taught by a teacher employed by an educational entity utilizing either two-way interactive video or the Internet without two-way interactive video;

(2) Dual-enrollment course means a course taught to students for credit at both a high school and a postsecondary educational institution;

(3) Educational entity means a school district, a private, denominational, or parochial school, an educational service unit, a community college, a state college, the University of Nebraska, or a nonprofit private postsecondary educational institution;

(4) Elementary distance education course means a distance education course which is delivered utilizing two-way interactive video to students who are enrolled in any of grades kindergarten through eight;

(5) Network Nebraska means the network created pursuant to section 86-5,100;

(6) Qualified distance education course means a distance education course which meets any applicable rules and regulations of the State Department of Education, is offered for one semester of high school credit or the equivalent, and for which all of the participating educational entities are required to have access to Network Nebraska;

~~(1) (7) Technical training means training to equip educators with knowledge about the skills and tools necessary to infuse technological resources and software applications into the curriculum to be used in classrooms with and by students and includes, but is not limited to, computer workstation troubleshooting, distance education, educational software, Internet resources, local area network management, multimedia presentation tools, and strategic planning;~~

~~(2) (8) Technology includes technical training and technology infrastructure; and~~

~~(3) (9) Technology infrastructure means hardware-related items necessary for schools to interact electronically throughout the state, including, but not limited to, physical connections, wiring, servers, routers, switches, domain name service, and operating systems and human resources necessary to maintain infrastructure, including, but not limited to, systems engineers, programmers, webmasters, and help desk staff; and -~~

(10) Two-way interactive video distance education course means a distance education course in which a teacher delivers instruction to students in a different location than the teacher using two-way interactive video on at least two different days per week during the course.

Sec. 10. On or before July 31, 2007, and on or before July 31 of each year thereafter, the State Board of Education shall adjust the boundaries of any educational service unit the boundaries of which do not align with the boundaries of the member school districts on July 1 of such year. Such boundary adjustments shall align the boundaries of the educational service unit with the boundaries of the member school districts as the boundaries of the member school districts existed on July 1 of such year. Such boundary adjustments shall be referred to the appropriate county and educational service unit officials, and such officials shall implement the adjustments and make the necessary changes in the educational service unit maps and tax records.

Sec. 11. Section 79-1208, Reissue Revised Statutes of Nebraska, is amended to read:

79-1208 Petitions to the State Board of Education to change educational service unit boundaries shall include a description of the proposed boundaries and shall be accompanied by a plan of reorganization which shall include (1) a summary of the reasons for the proposed reorganization, (2) a plan for the provision of services to school districts affected by any reorganization plan, (3) ~~in~~ ~~eases~~ when a petition proposes the dissolution of an entire educational service unit or units for attachment to an existing educational service unit or for the merger of two or more educational

service units into a new educational service unit, a summary of the terms on which such reorganization is made, including provision for the utilization of existing facilities, equipment, and materials and provision for the disposition of assets and any unbonded indebtedness of affected educational service units, and (4) when a petition deals with the attachment of new territory to an existing educational service unit, verification of approval by majority vote of the receiving educational service unit governing board, and (5) a plan for the establishment of new election districts as required under section 79-1217.

Sec. 12. Section 79-1211, Reissue Revised Statutes of Nebraska, is amended to read:

79-1211 The State Board of Education, within ninety days after the receipt of any ~~such~~ petition described in section 79-1208, shall hold a public hearing on the proposed reorganization plan. At the board's option, it may appoint a hearing officer to conduct the public hearing and ~~recommend a decision to~~ issue a summary of the evidence presented. The board may also direct the appointed hearing officer to recommend a decision to the board, which recommendation shall not be binding on the board. Within one hundred twenty days after the receipt of such petition, the board shall approve or reject such petition. If the board rejects the petition, it shall clearly state its reasons for such rejection. Approved petitions for reorganization of educational service unit boundaries shall be referred to the appropriate county and educational service unit officials to implement the plan and to make the necessary changes in the educational service unit maps and tax records.

Sec. 13. Section 79-1212, Reissue Revised Statutes of Nebraska, is amended to read:

79-1212 Members of boards of educational service units existing prior to approval of any plan of reorganization shall serve as board members of educational service units which are reorganized pursuant to sections 79-1206 to 79-1211 until the expiration of their original terms. Such persons shall be members of the board of the reorganized educational service unit in which they reside. Within thirty days after approval of any plan of reorganization by the State Board of Education, the Commissioner of Education shall call a meeting of board members of each educational service unit being reorganized pursuant to sections 79-1206 to 79-1211. At such meeting, members of each such board shall appoint one member from each ~~county~~ election district to be created pursuant to the plan of reorganization not having representation on such board to serve until the next general election. The board shall take all necessary action to prepare for operation of the reorganized educational service unit commencing one year following approval of any plan of reorganization by the State Board of Education. Expenses incurred by such board prior to such times shall be prorated between the counties comprising the educational service unit on the basis of the assessed valuation of such counties.

Sec. 14. Section 79-1217, Reissue Revised Statutes of Nebraska, is amended to read:

79-1217 (1) All educational service units, ~~except Educational Service Units No. 18 and 19,~~ shall be governed by a board to be known as the Board of Educational Service Unit No. The ~~Until the first Thursday after the first Tuesday in January 2009, the~~ educational service unit board, ~~except the board of an educational service unit with only one member school district,~~ shall be composed of one member from each county and four members at large, all of whom shall reside within the geographical boundaries of the educational service unit, but no more than two of the members at large shall be appointed or elected from the same county unless any one county within the educational service unit has a population in excess of one hundred fifty thousand inhabitants or the educational service unit consists of only one county. ~~The four candidates who receive the highest number of votes for at-large representative shall be elected, except that if more than two of such candidates reside within the same county which has a population of one hundred fifty thousand inhabitants or less, the candidates from such county receiving fewer votes than the two candidates receiving the highest number of votes for at-large representative from such county shall not be elected and a vacancy or vacancies shall exist for at-large representative. The vacancy shall be filled pursuant to subsection (2) of this section.~~ Beginning on the first Thursday after the first Tuesday in January 2009, the educational service unit board, except the board of an educational service unit with only one member school district, shall be composed of one member elected to represent each election district established pursuant to section 15 of this act. Successors to the members initially appointed pursuant to section 79-1212 shall be elected pursuant to section 32-515.

(2) Vacancies in office shall occur as set forth in section 32-560 except as otherwise provided in section 79-1212 regarding the requirement to live in the district represented. Whenever any vacancy occurs on the board, the remaining members of such board shall appoint an individual residing within the geographical boundaries election district of the educational service unit for which the vacancy exists and meeting the qualifications for the office to fill such vacancy for the balance of the unexpired term.

(3) Members of the board shall receive no compensation for their services but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties under the Educational Service Units Act as provided in sections 81-1174 to 81-1177.

(4) Except as provided in subsection (5) of this section, any joint school district located in two or more counties shall be considered a part of the educational service unit in which the greater number of school-age children of such joint school district reside. ~~All legal voters of any such joint school district shall be eligible to hold office as the county representative of the county in which the greater number of school-age children reside. Any legal voter of any joint school district shall be eligible to hold office as the at-large representative if such legal voter resides within the geographical boundary of the school district comprising the educational service unit.~~

(5) Any Class I district which is part of a Class VI district shall be considered a part of the educational service unit of which the Class VI district is a member. If the Class VI district has removed itself from an educational service unit, each Class I district which is part of such Class VI district may continue its existing membership in an educational service unit or may change its status relative to membership in an educational service unit in accordance with section 79-1209. The patrons of a Class I district maintaining membership in an educational service unit pursuant to this subsection shall have the same rights and privileges as other patrons of the educational service unit, and the taxable valuation of the taxable property within the geographic boundaries of such Class I district shall be subject to the educational service unit's tax levy established pursuant to section 79-1225.

(6) The administrator of each educational service unit, prior to July 1 of each year in which a statewide primary election is to be held, shall certify to the election commissioner or county clerk of each county located within the unit the corporate name of each school district, as described in section 79-405, located within the county. If a school district is a joint school district located in two or more counties, the administrator shall certify to each election commissioner or county clerk the educational service unit of which the school district is considered to be a part.

(7) ~~Educational Service Unit No. 18~~ service units with only one member school district shall be governed by the school board of ~~School District 55-001 of Lancaster County.~~ such school district.

~~(8) Educational Service Unit No. 19 shall be governed by the school board of School District 28-001 of Douglas County.~~

Sec. 15. By December 31, 2007, and after each decennial census pursuant to section 32-553, each educational service unit board, except boards of educational service units with only one member school district, shall divide the territory of the educational service unit into at least five and up to twelve numbered districts for the purpose of electing members to the board in compliance with section 32-553. Such districts shall be compact and contiguous and substantially equal in population. The newly established election districts shall apply beginning with the nomination and election of educational service unit board members in 2008.

Sec. 16. The Educational Service Unit Coordinating Council is created as of July 1, 2008. On such date the assets and liabilities of the Distance Education Council shall be transferred to the Educational Service Unit Coordinating Council. The council shall be composed of one administrator from each educational service unit. The council shall be funded from one percent of the core services and technology infrastructure funding appropriated pursuant to section 24 of this act, appropriations by the Legislature for distance education, and fees established for services provided to educational entities.

Sec. 17. (1) The Educational Service Unit Coordinating Council shall work toward statewide coordination to provide the most cost-effective services for the students, teachers, and school districts in each educational service unit. The council's duties include, but are not limited to:

(a) Preparation of strategic plans to assure the cost-efficient and equitable delivery of services across the state;

(b) Administration of statewide initiatives and provision of

statewide services; and

(c) Coordination of distance education.

(2) All activities conducted by the council shall be conducted in accordance with the Open Meetings Act. This section does not require or provide for state control of the operations of any educational service unit or abridge the governance ability, rights, or responsibilities of any educational service unit board.

Sec. 18. The Educational Service Unit Coordinating Council shall appoint a distance education director and may appoint a council director, both of whom shall hold office at the pleasure of the council, except that the person serving as the administrator of the Distance Education Council immediately preceding the operative date of this section shall be the initial distance education director under this section. The council director and the distance education director shall receive such salaries as the council determines and shall be reimbursed for their actual expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

The council director and the distance education director shall perform duties as the council directs and shall not be members of the council. The council may also appoint or retain such other persons as it may deem necessary for the performance of its functions and shall prescribe their duties, fix their compensation, and provide for reimbursement of their actual and necessary expenses as provided in sections 81-1174 to 81-1177 within the amounts available in the budget of the council.

Sec. 19. Section 79-1334, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1334 The powers and duties of the ~~Distance Education~~ Educational Service Unit Coordinating Council include, but are not limited to:

- (1) Providing public access to lists of qualified distance education courses;
- (2) Collecting and providing school schedules for participating educational entities;
- (3) Facilitation of scheduling for qualified distance education courses;
- (4) Brokering of qualified distance education courses to be purchased by educational entities;
- (5) Assessment of distance education needs and evaluation of distance education services;
- (6) Compliance with technical standards as set forth by the Nebraska Information Technology Commission and academic standards as set forth by the State Department of Education related to distance education;
- (7) Establishment of a system for prioritizing courses if the demand for Network Nebraska exceeds the capacity available for distance education and for choosing receiving educational entities when the demand for a course exceeds the capacity as determined by either the technology available or the course provider;
- (8) Scheduling and prioritization for access to Network Nebraska by educational entities in cooperation with the Chief Information Officer and using scheduling software or scheduling services which meet any applicable standards established by the commission;
- (9) Administration of learning management systems that are in compliance with any applicable standards of the commission either through the staff of the council or by delegation to an appropriate educational entity with the funding for such systems provided by participating educational entities; and
- (10) Coordination with educational service units and postsecondary educational institutions to provide assistance for instructional design for both two-way interactive video distance education courses and the offering of graduate credit courses in distance education.

Sec. 20. Section 79-1335, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1335 The ~~Distance Education~~ Educational Service Unit Coordinating Council shall only provide assistance in brokering or scheduling courses to educational entities that have access to Network Nebraska. All costs to the council associated with assisting private, denominational, or parochial schools and private postsecondary educational institutions shall be paid by such private, denominational, or parochial school or private postsecondary educational institution. Any services of the council may also be offered to other public entities with access to Network Nebraska on a contractual basis. The council shall not approve technology purchases for the council in excess of ten thousand dollars without approval of the technical panel of the Nebraska Information Technology Commission that the purchases are in compliance with any applicable commission standards.

Sec. 21. Section 79-1223, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1223 In order to carry out the purposes provided in section 79-1204, educational service units may purchase, lease, or lease-purchase real estate, equipment, supplies, services, and personal property for their own use. Educational service units may, either individually or collectively, purchase, lease, lease-purchase, or act as purchase agent for administrative and instructional supplies, instructional equipment, instructional services, and personal property for resale only to educational entities, as defined in section 79-1332. When an educational service unit advertises for bids for administrative or instructional supplies, instructional equipment, instructional services, and personal property, acceptance of any bid submitted to the educational service unit shall obligate the educational service unit to award the contract in accordance with the plans and specifications and in the quantities set forth in the bid documents.

Sec. 22. Section 79-1233, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1233 Each educational service unit shall provide access for all school districts within the geographical area served by the unit to telecomputing resources, which shall include the capacity to receive and transmit distance education courses on at least a regional basis beginning on or before August 1, 2007, through the installation of necessary equipment at each educational service unit location or through interlocal agreements with other educational service units and shall provide support for training users to meet their specific telecomputing and distance education needs. School districts may annually elect prior to a date determined by the educational service unit not to connect to such telecomputing resources. Each educational service unit shall also develop, with the State Department of Education, a plan which provides for connecting the telecomputing and distance education equipment of such school districts with the telecomputing and distance education equipment of the unit.

The leasing or purchase of and planning for telecomputing or distance education equipment and software for the educational service units shall meet the minimum standards as set by the Nebraska Information Technology Commission. The Chief Information Officer shall bid for such equipment and software and shall allow educational entities as defined in section 79-1332 to participate in such statewide leasing or purchasing contracts. Educational service units may enter into agreements pursuant to the Interlocal Cooperation Act and the Joint Public Agency Act to carry out this section. Such agreements may include, but need not be limited to, provisions requiring any school district having telecomputing or distance education equipment connected to the educational service unit's telecomputing or distance education equipment to pay periodic fees necessary to cover the cost of such usage.

Sec. 23. Section 79-1241, Reissue Revised Statutes of Nebraska, is amended to read:

79-1241 (1) For fiscal years prior to FY2008-09: Funds appropriated for core services shall be distributed proportionally to each educational service unit by the State Department of Education based on the fall membership in member districts in the preceding school fiscal year, except that no educational service unit shall receive less than two and one-half percent of the funds appropriated for core services.

(2) Any funds appropriated for distribution pursuant to this section ~~for school fiscal year 2003-04 and each school fiscal year thereafter~~ shall be distributed in ten as nearly as possible equal payments on the first business day of each month beginning in September of each school fiscal year and ending in June. Funds distributed pursuant to this section shall be used for core services with the approval of representatives of two-thirds of the member school districts, representing a majority of the students in the member school districts. If a member school district provides evidence satisfactory to the educational service unit that the district will provide core services for itself in a cost-efficient manner, the educational service unit may distribute funds directly to the district to be used for providing core services, or if all member school districts within the boundaries of an educational service unit together provide evidence satisfactory to the State Department of Education that the districts will provide core services for themselves in a more cost-efficient manner than the educational service unit, the department shall distribute funds directly to the districts to be used for providing core services.

(3) If two or more educational service units merge, the resulting merged educational service unit shall, for each of the ~~two~~ three fiscal years following the fiscal year in which the merger takes place, receive core services funds under this section in an amount not less than the total of

the core services funds that each of the merging educational service units received in the fiscal year immediately preceding the merger, except that if the appropriation for core services funds for either of the ~~two~~ three fiscal years following the fiscal year in which the merger takes place is less than the appropriation for such funds for the fiscal year immediately preceding the merger, core services funds shall be reduced by a percentage equal to the ratio of the difference of such appropriation for the fiscal year immediately preceding the merger minus the appropriation for the fiscal year in question divided by the appropriation for the fiscal year immediately preceding the merger. Thereafter the distribution of core services funds to the merged educational service unit shall be as provided in subsection ~~(1)~~ (2) of this section.

Sec. 24. For school fiscal year 2008-09 and each school fiscal year thereafter:

(1) One percent of the funds appropriated for core services and technology infrastructure shall be transferred to the Educational Service Unit Coordinating Council. The remainder of such funds shall be distributed pursuant to subdivisions (2) through (6) of this section;

(2)(a) The distance education and telecommunications allowance for each educational service unit shall equal eighty-five percent of the difference of the costs for telecommunications services, for access to data transmission networks that transmit data to and from the educational service unit, and for the transmission of data on such networks paid by the educational service unit as reported on the annual financial report for the most recently available complete data year minus the receipts from the federal Universal Service Fund pursuant to 47 U.S.C. 254, as such section existed on January 1, 2007, for the educational service unit as reported on the annual financial report for the most recently available complete data year and minus any receipts from school districts or other educational entities for payment of such costs as reported on the annual financial report of the educational service unit;

(b) The base allocation of each educational service unit shall equal two and one-half percent of the funds appropriated for distribution pursuant to this section;

(c) The satellite office allocation for each educational service unit shall equal one percent of the funds appropriated for distribution pursuant to this section for each office of the educational service unit, except the educational service unit headquarters, up to the maximum number of satellite offices. The maximum number of satellite offices used for the calculation of the satellite office allocation for any educational service unit shall equal the difference of the ratio of the number of square miles within the boundaries of the educational service unit divided by four thousand minus one with the result rounded to the closest whole number;

(d) The statewide adjusted valuation shall equal the total adjusted valuation for all local systems pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the Tax Equity and Educational Opportunities Support Act for the school fiscal year for which the distribution is being calculated pursuant to this section;

(e) The adjusted valuation for each educational service unit shall equal the total adjusted valuation of the member school districts pursuant to section 79-1016 used for the calculation of state aid for school districts pursuant to the act for the school fiscal year for which the distribution is being calculated pursuant to this section;

(f) The local effort rate shall equal \$0.0135 per one hundred dollars of adjusted valuation;

(g) Except as provided in subdivision (5) of this section, the statewide student allocation shall equal the difference of the sum of the amount appropriated for distribution pursuant to this section plus the product of the statewide adjusted valuation multiplied by the local effort rate minus the distance education and telecommunications allowance, base allocation, and satellite office allocation for all educational service units;

(h) The sparsity adjustment for each educational service unit shall equal the sum of one plus one-tenth of the ratio of the square miles within the boundaries of the educational service unit divided by the fall membership of the member school districts for the school fiscal year immediately preceding the school fiscal year for which the distribution is being calculated pursuant to this section;

(i) The adjusted students for each educational service unit shall equal the fall membership of the member school districts for the school fiscal year immediately preceding the school fiscal year for which aid is being calculated pursuant to this section multiplied by the educational service unit sparsity adjustment;

(j) The per student allocation shall equal the statewide student allocation divided by the total adjusted students for all educational service units;

(k) The student allocation for each educational service unit shall equal the per student allocation multiplied by the adjusted students for the educational service units;

(l) The needs for each educational service unit shall equal the sum of the distance education and telecommunications allowance, base allocation, satellite office allocation, and student allocation for the educational service unit; and

(m) The distribution of core services and technology infrastructure funds for each educational service unit shall equal the needs for each educational service unit minus the product of the adjusted valuation for the educational service unit multiplied by the local effort rate;

(3) If an educational service unit is the result of a merger or received new member school districts from another educational service unit, such educational service unit shall, for each of the three fiscal years following the fiscal year in which the merger takes place or the new member school districts are received, receive core services and technology infrastructure funds pursuant to subdivisions (2) through (6) of this section in an amount not less than the core services and technology infrastructure funds received in the fiscal year immediately preceding the merger or receipt of new member school districts, except that if the total amount available to be distributed pursuant to subdivisions (2) through (6) of this section for such year is less than the total amount distributed pursuant to such subdivisions or sections 79-1241 and 79-1243 for the immediately preceding fiscal year, the minimum core services and technology infrastructure funds for each educational service unit pursuant to this subdivision shall be reduced by a percentage equal to the ratio of the difference of the total amount distributed pursuant to subdivisions (2) through (6) of this section or sections 79-1241 and 79-1243 for the immediately preceding fiscal year minus the total amount available to be distributed pursuant to subdivisions (2) through (6) of this section for the fiscal year in question divided by the total amount distributed pursuant to subdivisions (2) through (6) of this section or sections 79-1241 and 79-1243 for the immediately preceding fiscal year. The core services and technology infrastructure funds received in the fiscal year immediately preceding a merger or receipt of new member school districts for an educational service unit shall equal the amount received in such fiscal year pursuant to subdivisions (2) through (6) of this section or sections 79-1241 and 79-1243 by any educational service unit affected by the merger or the transfer of school districts multiplied by a ratio equal to the valuation that was transferred to or retained by the educational service unit for which the minimum is being calculated divided by the total valuation of the educational service unit transferring or retaining the territory;

(4) For fiscal years 2008-09 through 2013-14, each educational service unit shall receive core services and technology infrastructure funds under this section in an amount not less than ninety-five percent of the total of the core services and technology infrastructure funds that the educational service unit received in the immediately preceding fiscal year either pursuant to subdivisions (2) through (6) of this section or pursuant to sections 79-1241 and 79-1243, except that if the total amount available to be distributed pursuant to subdivisions (2) through (6) of this section for such year is less than the total amount distributed pursuant to such subdivisions or sections 79-1241 and 79-1243 for the immediately preceding fiscal year, the minimum core services and technology infrastructure funds for each educational service unit pursuant to this subdivision shall be reduced by a percentage equal to the ratio of the difference of the total amount distributed pursuant to subdivisions (2) through (6) of this section or sections 79-1241 and 79-1243 for the immediately preceding fiscal year minus the total amount available to be distributed pursuant to subdivisions (2) through (6) of this section for the fiscal year in question divided by the total amount distributed pursuant to subdivisions (2) through (6) of this section or sections 79-1241 and 79-1243 for the immediately preceding fiscal year;

(5) If the minimum core services and technology infrastructure funds pursuant to subdivision (3) or (4) of this section for any educational service unit exceed the amount that would otherwise be distributed to such educational service unit pursuant to subdivision (2) of this section, the statewide student allocation shall be reduced such that the total amount to be distributed pursuant to this section equals the appropriation for core services and technology infrastructure funds and no educational service unit receives less than the greater of any minimum amounts calculated for such

educational service unit pursuant to subdivisions (3) and (4) of this section; and

(6) The State Department of Education shall certify the distribution of core services and technology infrastructure funds pursuant to subdivisions (2) through (6) of this section to each educational service unit on or before July 1, 2008, for school fiscal year 2008-09 and on or before July 1 of each year thereafter for the following school fiscal year. Any funds appropriated for distribution pursuant to this section shall be distributed in ten as nearly as possible equal payments on the first business day of each month beginning in September of each school fiscal year and ending in June. Funds distributed pursuant to this section shall be used for core services and technology infrastructure with the approval of representatives of two-thirds of the member school districts of the educational service unit, representing a majority of the students in the member school districts.

Sec. 25. Section 79-1241.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1241.01 To carry out sections 79-1241 and 79-1243 and section 24 of this act, it is the intent of the Legislature to appropriate for each fiscal year the amount appropriated in the prior year increased by the percentage growth in the fall membership of member districts plus the basic allowable growth rate described in section 79-1025. For purposes of this section, fall membership has the same meaning as in section 79-1003. Fall membership data used to compute growth shall be from the two most recently available fall membership reports.

Sec. 26. Section 79-1241.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1241.02 It is the intent of the Legislature that any funds appropriated pursuant to ~~the intent of~~ section 79-1241.01 or 79-1243 or section 24 of this act and used for technology-related projects or technology initiatives undertaken by an educational service unit follow the review process established in sections 86-512 to 86-524, including the review by the technical panel of the Nebraska Information Technology Commission.

Sec. 27. Section 79-1243, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1243 For school fiscal years prior to school fiscal year 2008-09:

(1) Funds appropriated for technology infrastructure shall be distributed proportionally to each educational service unit by the State Department of Education based on the fall membership of member districts in the preceding school fiscal year, except that no educational service unit shall receive less than the sum of (a) two and one-half percent of the funds appropriated for technology infrastructure plus (b) eighty-five percent of the difference of the costs for telecommunications services, for access to data transmission networks that transmit data to and from the educational service unit, and for the transmission of data on such networks paid by the educational service unit as reported on the annual financial report for the most recently available complete data year minus the receipts from the federal Universal Service Fund pursuant to section 254 of the Telecommunications Act of 1996, 47 U.S.C. 254, as such section existed on January 1, 2006, for the educational service unit as reported on the annual financial report for the most recently available complete data year and minus any receipts from school districts or other educational entities for payment of such costs as reported on the annual financial report of the educational service unit; ~~and~~

(2) Any funds appropriated for distribution pursuant to this section shall be distributed in ten as nearly as possible equal payments on the first business day of each month beginning in September of each school fiscal year and ending in June. Funds distributed pursuant to this section shall be used for technology infrastructure with the approval of representatives of two-thirds of the member school districts, representing a majority of the students in the member school districts; and ~~and~~

(3) If two or more educational service units merge, the resulting merged educational service unit shall, for each of the ~~two~~ three fiscal years following the fiscal year in which the merger takes place, receive technology infrastructure funds under this section in an amount not less than the total of the technology infrastructure funds that each of the merging educational service units received in the fiscal year immediately preceding the merger, except that if the appropriation for technology infrastructure funds for either of the ~~two~~ three fiscal years following the fiscal year in which the merger takes place is less than the appropriation for such funds for the fiscal year immediately preceding the merger, technology infrastructure funds shall be reduced by a percentage equal to the ratio of the difference of such appropriation for the fiscal year immediately preceding the merger minus the appropriation for the fiscal year in question divided by the appropriation for

the fiscal year immediately preceding the merger. Thereafter the distribution of technology infrastructure funds to the merged educational service unit shall be as provided in ~~subsection~~ subdivision (1) of this section.

Sec. 28. Section 79-1304, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

- (1) To evaluate Internet-based distance education courses;
- (2) To provide clearinghouse services for information concerning current technology projects as well as software and hardware development;
- (3) To serve as a demonstration site for state-of-the-art hardware appropriate to an educational setting;
- (4) To provide technical assistance to educators in working with hardware and software;
- (5) To provide inservice and preservice training for educators, in conjunction with other educational entities as defined in section ~~79-1332,~~ 79-1201.01, in the use of computers, telecommunications, and other electronic technologies appropriate to an educational setting;
- (6) To sponsor activities which promote the use of technology in the classroom;
- (7) To serve as a liaison between business and education interests in technology communication;
- (8) To experiment with various applications or technology in education;
- (9) To assist schools in planning for and selecting appropriate technologies;
- (10) To design, implement, and evaluate pilot projects to assess the usefulness of technologies in school management, curriculum, instruction, and learning;
- (11) To seek partnerships with the Nebraska Educational Telecommunications Commission, the University of Nebraska, the state colleges, community colleges, educational service units, the Nebraska Library Commission, and other public and private entities in order to make effective use of limited resources;
- (12) To encourage sharing among school districts to deliver cost-efficient and effective distance learning; and
- (13) To identify, evaluate, and disseminate information on school projects which have the potential to enhance the quality of instruction or learning.

Sec. 29. Section 79-1336, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1336 (1) For fiscal years 2007-08 through 2013-14, the State Department of Education shall provide distance education equipment reimbursement to school districts and educational service units from the Education Innovation Fund as provided in this section. Such reimbursements shall be for hardware or software purchased after July 14, 2006, for use in distance education and shall be limited to a total through fiscal year 2013-14 of twenty thousand dollars multiplied by the number of high school buildings for each school district and twenty thousand dollars for each educational service unit office with a distance education classroom, except that no educational service unit shall count more than one office with a distance education classroom for each four thousand square miles within the boundaries of the educational service unit. If a school district has one or more former high school buildings that are no longer being used as high school buildings due to a school district merger and such buildings have distance education classrooms at the time of application, such buildings shall be deemed high school buildings for the purposes of this subsection. The reimbursements may include installation costs for such hardware or software. Applications shall be accepted by the department beginning in the first year that the school district or the educational service unit accesses Network Nebraska and ending June 30, 2013. Applications shall be submitted on or before July 1 of each year on a form specified by the department and shall include:

- (a) A description of the hardware or software purchased and how the hardware or software will be used for distance education;
- (b) Copies of receipts for the purchases to be reimbursed; and
- (c) For school districts, a commitment to either send or receive two-way interactive video distance education courses through the Distance Education Council until July 1, 2008, and the Educational Service Unit Coordinating Council on and after July 1, 2008, each semester, or the equivalent of two semester courses each year, for four years and to apply for distance education incentives pursuant to section 79-1337 or to provide any other evidence required by the department to show that the commitment was met.

(2) On or before August 1 of each year, the department shall certify the reimbursements to be paid to each school district or educational service unit on or before September 1 of each year.

(3) The department shall use the applications for distance education incentives submitted pursuant to section 79-1337 and any other information requested by the department pursuant to rules and regulations of the department to verify that each school district that received a reimbursement completes the commitment to either send or receive two-way interactive video distance education courses through the ~~Distance Education Council~~ council for four years. Any school district failing to complete such commitment shall repay the Education Innovation Fund for the amount of any reimbursements received pursuant to this section. On or before September 1 of each year, the department shall notify any school district failing to complete the commitment for the prior school year that repayment of the reimbursement is required and the amount of such repayment. Repayments shall be due on or before the immediately following December 31. Late repayments shall accrue interest at the rate prescribed in section 45-104.02 from the date of the initial reimbursement.

(4) On or before October 1 of each year, a school district or educational service unit may appeal the denial of reimbursements or a school district may appeal the requirement to repay reimbursements to the State Board of Education. The board shall allow a representative of the school district or educational service unit an opportunity to present information concerning the appeal to the board at the November board meeting. If the board finds that the department denied the reimbursement in error, the department shall pay the district or educational service unit from the Education Innovation Fund as soon as practical the amount which was denied in error. If the board finds that the department erred in notifying a school district that a reimbursement is required to be repaid, such notification shall be void.

(5) The State Board of Education shall adopt and promulgate rules and regulations to carry out this section.

Sec. 30. Section 79-1337, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1337 (1) For fiscal years 2007-08 through 2015-16, the State Department of Education shall provide distance education incentives from the Education Innovation Fund to school districts and educational service units for qualified distance education courses and coordinated through the Distance Education Council until July 1, 2008, and the Educational Service Unit Coordinating Council on and after July 1, 2008, as provided in this section.

(2) School districts and educational service units shall apply for incentives annually to the department on or before August 1 on a form specified by the department. The application shall:

(a) For school districts, specify (i) the qualified distance education courses which were received by students in the membership of the district in the then-current school fiscal year and which were not taught by a teacher employed by the school district and (ii) for each such course (A) the number of students in the membership of the district who received the course, (B) the educational entity employing the teacher, and (C) whether the course was a two-way interactive video distance education course; and

(b) For school districts and educational service units, specify (i) the qualified distance education courses which were received by students in the membership of another educational entity in the then-current school fiscal year and which were taught by a teacher employed by the school district or educational service unit, (ii) for each such course for school districts, the number of students in the membership of the district who received the course, and (iii) for each such course (A) the other educational entities in which students received the course and how many students received the course at such educational entities, (B) any school districts in the sparse cost grouping or the very sparse cost grouping as described in section 79-1007.02 that had at least one student in the membership who received the course, and (C) whether the course was a two-way interactive video distance education course.

(3) On or before September 1 of each year, the department shall certify the incentives to be paid to each school district and educational service unit on or before October 1 of each year. The incentives for each district shall be calculated as follows:

(a) Each district shall receive distance education units for each qualified distance education course as follows:

(i) One distance education unit for each qualified distance education course received as reported pursuant to subdivision (2)(a) of this section if the course was a two-way interactive video distance education course;

(ii) One distance education unit for each qualified distance

education course sent as reported pursuant to subdivision (2)(b) of this section if the course was not received by at least one student who was in the membership of another school district which was in the sparse cost grouping or the very sparse cost grouping;

(iii) One distance education unit for each qualified distance education course sent as reported pursuant to subdivision (2)(b) of this section if the course was received by at least one student who was in the membership of another school district which was in the sparse cost grouping or the very sparse cost grouping, but the course was not a two-way interactive video distance education course; and

(iv) Two distance education units for each qualified distance education course sent as reported pursuant to subdivision (2)(b) of this section if the course was received by at least one student who was in the membership of another school district which was in the sparse cost grouping or the very sparse cost grouping and the course was a two-way interactive video distance education course;

(b) The difference of the amount available for distribution in the Education Innovation Fund on the August 1 when the applications were due minus any amount to be paid to school districts pursuant to section 79-1336 shall be divided by the number of distance education units to determine the incentive per distance education unit, except that the incentive per distance education unit shall not equal an amount greater than one thousand dollars; and

(c) The incentives for each school district shall equal the number of distance education units calculated for the school district multiplied by the incentive per distance education unit.

(4) If there are additional funds available for distribution after equipment reimbursements pursuant to section 79-1336 and incentives calculated pursuant to subsections (1) through (3) of this section, school districts and educational service units may qualify for additional incentives for elementary distance education courses. Such incentives shall be calculated for sending and receiving school districts and educational service units as follows:

(a) The per-hour incentives shall equal the funds available for distribution after equipment reimbursements pursuant to section 79-1336 and incentives calculated pursuant to subsections (1) through (3) of this section divided by the sum of the hours of elementary distance education courses sent or received for each school district and educational service unit submitting an application, except that the per-hour incentives shall not be greater than ten dollars; and

(b) The elementary distance education incentives for each school district and educational service unit shall equal the per-hour incentive multiplied by the hours of elementary distance education courses sent or received by the school district or educational service unit.

~~(4)~~ (5) The department may verify any or all application information using annual curriculum reports and may request such verification from the Distance Education Council. council.

~~(5)~~ (6) On or before October 1 of each year, a school district or educational service unit may appeal the denial of incentives for any course by the department to the State Board of Education. The board shall allow a representative of the school district or educational service unit an opportunity to present information concerning the appeal to the board at the November board meeting. If the board finds that the course meets the requirements of this section, the department shall pay the district from the Education Innovation Fund as soon as practical in an amount for which the district or educational service unit should have qualified based on the incentive per distance education unit used in the original certification of incentives pursuant to this section.

~~(6)~~ (7) The State Board of Education shall adopt and promulgate rules and regulations to carry out this section.

Sec. 31. Section 84-304, Revised Statutes Cumulative Supplement, 2006, is amended to read:

84-304 It shall be the duty of the Auditor of Public Accounts:

(1) To give information in writing to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or with regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3) To examine or cause to be examined, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when

required to be performed by other officers or persons. Such examinations shall be done in accordance with generally accepted government auditing standards for financial audits and attestation engagements set forth in Government Auditing Standards (2003 Revision), published by the Comptroller General of the United States, General Accounting Office, and except as provided in subdivision (12) of this section, subdivision (16) of section 50-1205, and section 84-322, shall not include performance audits, whether conducted pursuant to attestation engagements or performance audit standards as set forth in Government Auditing Standards (2003 Revision), published by the Comptroller General of the United States, General Accounting Office;

(4)(a) To examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of any agricultural association formed under Chapter 2, article 20, any county agricultural society, any joint airport authority formed under the Joint Airport Authorities Act, any city or county airport authority, any bridge commission created pursuant to section 39-868, any cemetery district, any development district, any drainage district, any health district, any local public health department as defined in section 71-1626, any historical society, any hospital authority or district, any county hospital, any housing agency as defined in section 71-1575, any irrigation district, any county or municipal library, any community mental health center, any railroad transportation safety district, any rural water district, any township, Wyuka Cemetery, the Educational Service Unit Coordinating Council, any entity created pursuant to the Interlocal Cooperation Act which includes either the participation of the Educational Service Unit Coordinating Council or any educational service unit, any village, any political subdivision with the authority to levy a property tax or a toll, or any entity created pursuant to the Joint Public Agency Act which has separately levied a property tax based on legal authority for a joint public agency to levy such a tax independent of the public agencies forming such joint public agency.

(b) The Auditor of Public Accounts may waive the audit requirement of subdivision (4)(a) of this section upon the submission by the political subdivision of a written request in a form prescribed by the auditor. The auditor shall notify the political subdivision in writing of the approval or denial of the request for a waiver;

(5) To report promptly to the Governor and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations conducted by the auditor, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. In addition, if, in the normal course of conducting an audit in accordance with subdivision (3) of this section, the auditor discovers any potential problems related to the effectiveness, efficiency, or performance of state programs, he or she shall immediately report them in writing to the Legislative Performance Audit Committee which may investigate the issue further, report it to the appropriate standing committee of the Legislature, or both;

(6)(a) To examine or cause to be examined the books, accounts, vouchers, records, and expenditures of a fire protection district. The expense of the examination shall be paid by the political subdivision.

(b) Whenever the expenditures of a fire protection district are one hundred fifty thousand dollars or less per fiscal year, the fire protection district shall be audited no more than once every five years except as directed by the board of directors of the fire protection district or unless the auditor receives a verifiable report from a third party indicating any irregularities or misconduct of officers or employees of the fire protection district, any misappropriation or misuse of public funds or property, or any improper system or method of bookkeeping or condition of accounts of the fire protection district. In the absence of such a report, the auditor may waive the five-year audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a request for waiver of the five-year audit requirement. Upon approval of the request for waiver of the five-year audit requirement, a new five-year audit period shall begin.

(c) Whenever the expenditures of a fire protection district exceed one hundred fifty thousand dollars in a fiscal year, the auditor may waive the audit requirement upon the submission of a written request by the fire protection district in a form prescribed by the auditor. The auditor shall notify the fire protection district in writing of the approval or denial of a

request for waiver. Upon approval of the request for waiver, a new five-year audit period shall begin for the fire protection district if its expenditures are one hundred fifty thousand dollars or less per fiscal year in subsequent years;

(7) To appoint two assistant deputies (a) whose entire time shall be devoted to the service of the state as directed by the auditor, (b) who shall be certified public accountants with at least five years' experience, (c) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, (d) who shall promptly report in duplicate to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (e) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State;

(8) To conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-1229 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund;

(9) To conduct all audits and examinations in a timely manner and in accordance with the standards for audits of governmental organizations, programs, activities, and functions published by the Comptroller General of the United States;

(10) To develop a plan for implementing on-line filing of budgeted and actual financial information by political subdivisions. Such plan shall describe the technology and staff resources necessary to implement on-line filing of such information and the costs of these resources. Such plan shall be presented to the Clerk of the Legislature on or before January 15, 2003;

(11) To develop and maintain an annual budget and actual financial information reporting system that is accessible on-line by the public; and

(12) When authorized, to conduct joint audits with the Legislative Performance Audit Committee as described in section 50-1205.

Sec. 32. Section 86-515, Revised Statutes Cumulative Supplement, 2006, is amended to read:

86-515 (1) The Nebraska Information Technology Commission is created. The commission shall consist of (a) one member representing elementary and secondary education, (b) one member representing postsecondary education, (c) the Governor or his or her designee, (d) one member representing communities, and (e) five members representing the general public who have experience in developing strategic plans and making high-level business decisions. At any time that there is not a member of the ~~Distance Education~~ Educational Service Unit Coordinating Council serving on the Nebraska Information Technology Commission, the technical panel established pursuant to section 86-521, or any working groups established pursuant to sections 86-512 to 86-524 that establish, coordinate, or prioritize needs for education, the Governor shall appoint to the commission one member who serves on the ~~Distance Education~~ Educational Service Unit Coordinating Council.

(2) The Governor or a designee of the Governor shall serve as chairperson of the commission.

(3) The members of the commission shall be appointed by the Governor with the approval of a majority of the Legislature. Members of the commission shall serve for terms of four years, except that two members initially appointed to represent the general public shall be appointed for a term of two years and any member appointed to represent the ~~Distance Education~~ Educational Service Unit Coordinating Council shall be appointed for a term of one year. Members shall be limited to two consecutive terms. The Governor or his or her designee shall serve on the commission for his or her term. Each member shall serve until the appointment and qualification of his or her successor. In case of a vacancy occurring prior to the expiration of the term of a member, the appointment shall be made only for the remainder of the term.

(4) Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(5) The commission may employ or designate an executive director to provide administrative and operational support for the commission. The Department of Administrative Services and Nebraska Educational Telecommunications Commission shall assist with administrative and operational support for the Nebraska Information Technology Commission as necessary to carry out its duties.

Sec. 33. Section 86-5,100, Revised Statutes Cumulative Supplement, 2006, is amended to read:

86-5,100 The Chief Information Officer, in partnership with the University of Nebraska, shall develop and maintain a statewide, multipurpose, high capacity, scalable telecommunications network to be called Network Nebraska. The network shall consist of contractual arrangements with providers to meet the demand of state agencies, local governments, and educational entities as defined in section ~~79-1332~~, 79-1201.01. Such network shall provide access to a reliable and affordable infrastructure capable of carrying a spectrum of services and applications, including distance education, across the state. The Chief Information Officer shall provide access to each school district, each educational service unit, each community college, each state college, and the University of Nebraska at the earliest feasible date and no later than July 1, 2012. Access may be provided through educational service units or other aggregation points. The Chief Information Officer shall aggregate demand for those state agencies and educational entities choosing to participate and shall reduce costs for participants whenever feasible. The Chief Information Officer shall establish a cost structure based on actual costs plus administrative expenses and shall charge participants according to such cost structure.

Sec. 34. (1) For fiscal years 2007-08 through 2009-10, the State Department of Education shall provide temporary funding for aggregation routing equipment and network transport costs for Network Nebraska to the Chief Information Officer from the School District Reorganization Fund as provided in this section. Such temporary funding shall be for the purchase of aggregation routing equipment, installation costs for such equipment, and network transport for Network Nebraska and shall be repaid to the Education Innovation Fund on or before June 30, 2010, by the Chief Information Officer from funds collected for the administration of Network Nebraska. The total temporary funding provided pursuant to this section shall be limited to two hundred thousand dollars. Applications jointly submitted by the Chief Information Officer and the University of Nebraska shall be accepted by the department beginning on the operative date of this section. Applications shall be on a form specified by the department and shall include a description of the aggregation routing equipment to be purchased, a description of how the aggregation routing equipment will be used for distance education, the network transport costs to be supported, and a timeline for repayment to the School District Reorganization Fund. Late repayments shall accrue interest at the rate prescribed in section 45-104.02 from the date of the initial receipt of temporary funding.

(2) The Chief Information Officer or the University of Nebraska may appeal the denial of temporary funding for aggregation routing equipment and network transport costs for Network Nebraska or the assessment of interest to the State Board of Education. The board shall allow a representative of the Chief Information Officer or the University of Nebraska an opportunity to present information concerning the appeal to the board at the first board meeting after the filing of such appeal. If the board finds that the department denied the temporary funding in error, the department shall pay the Chief Information Officer from the School District Reorganization Fund as soon as practical the amount which was denied in error. If the board finds that the department erred in assessing interest, such assessment of interest shall be corrected.

(3) The State Board of Education may adopt and promulgate rules and regulations to carry out this section.

Sec. 35. Sections 1, 16, 17, 18, 19, 20, 21, 22, 28, 31, 32, 33, 36, and 39 of this act become operative on July 1, 2008. Sections 4, 7, 8, 10, 12, 34, 35, 38, and 40 of this act become operative on their effective date. The other sections of this act become operative three calendar months after the adjournment of this legislative session.

Sec. 36. Original sections 13-503, 79-1223, 79-1233, 79-1304, 79-1334, 79-1335, 84-304, 86-515, and 86-5,100, Revised Statutes Cumulative Supplement, 2006, are repealed.

Sec. 37. Original sections 32-515, 32-607, 79-1201.01, 79-1208, 79-1212, 79-1217, and 79-1241, Reissue Revised Statutes of Nebraska, sections 79-1018.01, 79-1241.01, 79-1241.02, 79-1243, 79-1336, and 79-1337, Revised Statutes Cumulative Supplement, 2006, and section 79-1028, Revised Statutes

Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422, are repealed.

Sec. 38. Original sections 79-1201 and 79-1211, Reissue Revised Statutes of Nebraska, and sections 79-1012 and 79-1103, Revised Statutes Cumulative Supplement, 2006, are repealed.

Sec. 39. The following sections are outright repealed: Sections 79-1332 and 79-1333, Revised Statutes Cumulative Supplement, 2006.

Sec. 40. Since an emergency exists, this act takes effect when passed and approved according to law.