

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 575

Final Reading

Introduced by Price, 3; McCoy, 39; Mello, 5; Krist, 10; Pirsch, 4;
Cook, 13.

Read first time January 19, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to education; to amend section 79-318, Revised
2 Statutes Cumulative Supplement, 2010, and section 9-812,
3 Revised Statutes Cumulative Supplement, 2010, as amended
4 by section 1, Legislative Bill 333, One Hundred Second
5 Legislature, First Session, 2011; to adopt the Interstate
6 Compact on Educational Opportunity for Military Children;
7 to define terms; to provide powers and duties for the
8 State Department of Education and the State Board of
9 Education; to create a council; to designate a compact
10 commissioner; to allocate money in the Education
11 Innovation Fund for the compact; to provide an operative
12 date; and to repeal the original sections.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Interstate Compact on Educational
2 Opportunity for Military Children is hereby enacted into law and
3 entered into with all other jurisdictions legally joining therein in
4 the form substantially as follows:

5 Interstate Compact on Educational

6 Opportunity for Military Children

7 ARTICLE I

8 PURPOSE

9 It is the purpose of this compact to remove barriers to
10 educational success imposed on children of military families because
11 of frequent moves and deployment of their parents by:

12 A. Facilitating the timely enrollment of children of
13 military families and ensuring that they are not placed at a
14 disadvantage due to difficulty in the transfer of education records
15 from the previous school district or variations in entrance or age
16 requirements.

17 B. Facilitating the student placement process through
18 which children of military families are not disadvantaged by
19 variations in attendance requirements, scheduling, sequencing,
20 grading, course content, or assessment.

21 C. Facilitating the qualification and eligibility for
22 enrollment, educational programs, and participation in
23 extracurricular academic, athletic, and social activities.

24 D. Facilitating the on-time graduation of children of
25 military families.

1 E. Providing for the promulgation and enforcement of
2 administrative rules implementing the provisions of this compact.

3 F. Providing for the uniform collection and sharing of
4 information between and among member states, schools, and military
5 families under this compact.

6 G. Promoting coordination between this compact and other
7 compacts affecting military children.

8 H. Promoting flexibility and cooperation between the
9 educational system, parents, and the student in order to achieve
10 educational success for the student.

11 **ARTICLE II**

12 **DEFINITIONS**

13 As used in this compact, unless the context clearly
14 requires a different construction:

15 A. "Active duty" means full-time duty status in the
16 active uniformed service of the United States, including members of
17 the National Guard and Reserve on active duty orders pursuant to 10
18 U.S.C. 1209 and 1211.

19 B. "Children of military families" means school-aged
20 children, enrolled in kindergarten through twelfth grade, in the
21 household of an active duty member.

22 C. "Compact commissioner" means the voting representative
23 of each compacting state appointed pursuant to Article VIII of this
24 compact.

25 D. "Deployment" means the period one month prior to the

1 service members' departure from their home station on military orders
2 through six months after return to their home station.

3 E. "Education records" or "educational records" means
4 those official records, files, and data directly related to a student
5 and maintained by the school or local education agency, including,
6 but not limited to, records encompassing all the material kept in the
7 student's cumulative folder such as general identifying data, records
8 of attendance and of academic work completed, records of achievement
9 and results of evaluative tests, health data, disciplinary status,
10 test protocols, and individualized education programs.

11 F. "Extracurricular activities" means a voluntary
12 activity sponsored by the school or local education agency or an
13 organization sanctioned by the local education agency.
14 Extracurricular activities include, but are not limited to,
15 preparation for and involvement in public performances, contests,
16 athletic competitions, demonstrations, displays, and club activities.

17 G. "Interstate Commission on Educational Opportunity for
18 Military Children" means the commission that is created under Article
19 IX of this compact, which is generally referred to as Interstate
20 Commission.

21 H. "Local education agency" means a public authority
22 legally constituted by the state as an administrative agency to
23 provide control of and direction for kindergarten through twelfth
24 grade public educational institutions.

25 I. "Member state" means a state that has enacted this

1 compact.

2 J. "Military installation" means a base, camp, post,
3 station, yard, center, homeport facility for any ship, or other
4 activity under the jurisdiction of the United States Department of
5 Defense, including any leased facility, which is located within any
6 of the several states, the District of Columbia, the Commonwealth of
7 Puerto Rico, the United States Virgin Islands, Guam, American Samoa,
8 the Northern Mariana Islands, and any other United States territory.
9 Such term does not include any facility used primarily for civil
10 works, rivers and harbors projects, or flood control projects.

11 K. "Nonmember state" means a state that has not enacted
12 this compact.

13 L. "Receiving state" means the state to which a child of
14 a military family is sent, brought, or caused to be sent or brought.

15 M. "Rule" means a written statement by the Interstate
16 Commission promulgated pursuant to Article XII of this compact that
17 is of general applicability, implements, interprets or prescribes a
18 policy or provision of the compact, or an organizational, procedural,
19 or practice requirement of the Interstate Commission, and has the
20 force and effect of statutory law in a member state, and includes the
21 amendment, repeal, or suspension of an existing rule.

22 N. "Sending state" means the state from which a child of
23 a military family is sent, brought, or caused to be sent or brought.

24 O. "State" means a state of the United States, the
25 District of Columbia, the Commonwealth of Puerto Rico, the United

1 States Virgin Islands, Guam, American Samoa, the Northern Mariana
2 Islands, and any other United States territory.

3 P. "Student" means the child of a military family for
4 whom the local education agency receives public funding and who is
5 formally enrolled in kindergarten through twelfth grade.

6 Q. "Transition" means (1) the formal and physical process
7 of transferring from school to school or (2) the period of time in
8 which a student moves from one school in the sending state to another
9 school in the receiving state.

10 R. "Uniformed services" means the Army, Navy, Air Force,
11 Marine Corps, Coast Guard as well as the Commissioned Corps of the
12 National Oceanic and Atmospheric Administration, and Public Health
13 Services.

14 S. "Veteran" means a person who served in the uniformed
15 services and who was discharged or released therefrom under
16 conditions other than dishonorable.

17 **ARTICLE III**

18 **APPLICABILITY**

19 A. Except as otherwise provided in Section B, this
20 compact shall apply to the children of:

21 1. active duty members of the uniformed services as
22 defined in this compact, including members of the National Guard and
23 Reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;
24 2. members or veterans of the uniformed services who are
25 severely injured and medically discharged or retired for a period of

1 one year after medical discharge or retirement; and
2 3. members of the uniformed services who die on active
3 duty or as a result of injuries sustained on active duty for a period
4 of one year after death.

5 B. The provisions of this interstate compact shall only
6 apply to local education agencies as defined in this compact.

7 C. The provisions of this compact shall not apply to the
8 children of:

9 1. inactive members of the National Guard and military
10 reserves;

11 2. members of the uniformed services now retired, except
12 as provided in Section A;

13 3. veterans of the uniformed services, except as provided
14 in Section A; and

15 4. other United States Department of Defense personnel
16 and other federal agency civilian and contract employees not defined
17 as active duty members of the uniformed services.

18 ARTICLE IV

19 EDUCATIONAL RECORDS AND ENROLLMENT

20 A. Unofficial or "hand-carried" education records -- In
21 the event that official education records cannot be released to the
22 parents for the purpose of transfer, the custodian of the records in
23 the sending state shall prepare and furnish to the parent a complete
24 set of unofficial educational records containing uniform information
25 as determined by the Interstate Commission. Upon receipt of the

1 unofficial education records by a school in the receiving state, the
2 school shall enroll and appropriately place the student based on the
3 information provided in the unofficial records pending validation by
4 the official records, as quickly as possible.

5 B. Official education records and transcripts --
6 Simultaneous with the enrollment and conditional placement of the
7 student, the school in the receiving state shall request the
8 student's official education record from the school in the sending
9 state. Upon receipt of this request, the school in the sending state
10 will process and furnish the official education records to the school
11 in the receiving state within ten days or within such time as is
12 reasonably determined under the rules promulgated by the Interstate
13 Commission.

14 C. Immunizations -- Compacting states shall give thirty
15 days from the date of enrollment or within such time as is reasonably
16 determined under the rules promulgated by the Interstate Commission,
17 for students to obtain any immunizations required by the receiving
18 state. For a series of immunizations, initial vaccinations must be
19 obtained within thirty days or within such time as is reasonably
20 determined under the rules promulgated by the Interstate Commission.

21 D. Kindergarten and first grade entrance age -- Students
22 shall be allowed to continue their enrollment at grade level in the
23 receiving state commensurate with their grade level (including
24 kindergarten) from a local education agency in the sending state at
25 the time of transition, regardless of age. A student that has

1 satisfactorily completed the prerequisite grade level in the local
2 education agency in the sending state shall be eligible for
3 enrollment in the next highest grade level in the receiving state,
4 regardless of age. A student transferring after the start of the
5 school year in the receiving state shall enter the school in the
6 receiving state on their validated level from an accredited school in
7 the sending state.

8 ARTICLE V

9 PLACEMENT AND ATTENDANCE

10 A. Course placement -- When the student transfers before
11 or during the school year, the receiving state school shall initially
12 honor placement of the student in educational courses based on the
13 student's enrollment in the sending state school or educational
14 assessments conducted at the school in the sending state if the
15 courses are offered. Course placement includes, but is not limited
16 to, Honors, International Baccalaureate, Advanced Placement,
17 vocational, technical, and career pathways courses. Continuing the
18 student's academic program from the previous school and promoting
19 placement in academically and career challenging courses should be
20 paramount when considering placement. This does not preclude the
21 school in the receiving state from performing subsequent evaluations
22 to ensure appropriate placement and continued enrollment of the
23 student in the courses.

24 B. Educational program placement -- The receiving state
25 school shall initially honor placement of the student in educational

1 programs based on current educational assessments conducted at the
2 school in the sending state or participation or placement in like
3 programs in the sending state. Such programs include, but are not
4 limited to: (1) gifted and talented programs; and (2) English as a
5 second language. This does not preclude the school in the receiving
6 state from performing subsequent evaluations to ensure appropriate
7 placement of the student.

8 C. Special education services -- (1) In compliance with
9 the federal requirements of the Individuals with Disabilities
10 Education Act, 20 U.S.C. 1400 et seq., the receiving state shall
11 initially provide comparable services to a student with disabilities
12 based on his or her current Individualized Education Program; and (2)
13 In compliance with the requirements of Section 504 of the
14 Rehabilitation Act, 29 U.S.C. 794, and with Title II of the Americans
15 with Disabilities Act, 42 U.S.C. 12131 to 12165, the receiving state
16 shall make reasonable accommodations and modifications to address the
17 needs of incoming students with disabilities, subject to an existing
18 504 or Title II Plan, to provide the student with equal access to
19 education. This does not preclude the school in the receiving state
20 from performing subsequent evaluations to ensure appropriate
21 placement of the student.

22 D. Placement flexibility -- Local education agency
23 administrative officials shall have flexibility in waiving course or
24 program prerequisites, or other preconditions for placement in
25 courses or programs offered under the jurisdiction of the local

1 education agency.

2 E. Absence as related to deployment activities -- A
3 student whose parent or legal guardian is an active duty member of
4 the uniformed services, as defined by the compact, and has been
5 called to duty for, is on leave from, or immediately returned from
6 deployment to a combat zone or combat support posting, shall be
7 granted additional excused absences at the discretion of the local
8 education agency superintendent to visit with his or her parent or
9 legal guardian relative to such leave or deployment of the parent or
10 guardian.

11 ARTICLE VI

12 ELIGIBILITY

13 A. Eligibility for enrollment

14 1. Special power of attorney, relative to the
15 guardianship of a child of a military family and executed under
16 applicable law shall be sufficient for the purposes of enrollment and
17 all other actions requiring parental participation and consent.

18 2. A local education agency shall be prohibited from
19 charging local tuition to a transitioning military child placed in
20 the care of a noncustodial parent or other person standing in loco
21 parentis who lives in a jurisdiction other than that of the custodial
22 parent.

23 3. A transitioning military child, placed in the care of
24 a noncustodial parent or other person standing in loco parentis who
25 lives in a jurisdiction other than that of the custodial parent, may

1 continue to attend the school in which he or she was enrolled while
2 residing with the custodial parent.

3 B. Eligibility for extracurricular participation -- State
4 and local education agencies shall facilitate the opportunity for
5 transitioning military children's inclusion in extracurricular
6 activities, regardless of application deadlines, to the extent they
7 are otherwise qualified.

8 ARTICLE VII

9 GRADUATION

10 In order to facilitate the on-time graduation of children
11 of military families states and local education agencies shall
12 incorporate the following procedures:

13 A. Waiver requirements -- Local education agency
14 administrative officials shall waive specific courses required for
15 graduation if similar course work has been satisfactorily completed
16 in another local education agency or shall provide reasonable
17 justification for denial. Should a waiver not be granted to a student
18 who would qualify to graduate from the sending school, the local
19 education agency shall provide an alternative means of acquiring
20 required coursework so that graduation may occur on time.

21 B. Exit exams -- States shall accept: (1) exit or end-of-
22 course exams required for graduation from the sending state; (2)
23 national norm-referenced achievement tests; or (3) alternative
24 testing, in lieu of testing requirements for graduation in the
25 receiving state. In the event the above alternatives cannot be

1 accommodated by the receiving state for a student transferring in his
2 or her senior year, then the provisions of Article VII, Section C
3 shall apply.

4 C. Transfers during senior year -- Should a military
5 student transferring at the beginning or during his or her senior
6 year be ineligible to graduate from the receiving local education
7 agency after all alternatives have been considered, the sending and
8 receiving local education agencies shall ensure the receipt of a
9 diploma from the sending local education agency, if the student meets
10 the graduation requirements of the sending local education agency. In
11 the event that one of the states in question is not a member of this
12 compact, the member state shall use best efforts to facilitate the
13 on-time graduation of the student in accordance with Sections A and B
14 of this Article.

15 **ARTICLE VIII**

16 **STATE COORDINATION**

17 A. Each member state shall, through the creation of a
18 state council or use of an existing body or board, provide for the
19 coordination among its agencies of government, local education
20 agencies and military installations concerning the state's
21 participation in, and compliance with, this compact and Interstate
22 Commission activities. While each member state may determine the
23 membership of its own state council, its membership must include at
24 least: the state superintendent of education, superintendent of a
25 school district with a high concentration of military children,

1 representative from a military installation, one representative each
2 from the legislative and executive branches of government, and other
3 offices and stakeholder groups the state council deems appropriate. A
4 member state that does not have a school district deemed to contain a
5 high concentration of military children may appoint a superintendent
6 from another school district to represent local education agencies on
7 the state council.

8 B. The state council of each member state shall appoint
9 or designate a military family education liaison to assist military
10 families and the state in facilitating the implementation of this
11 compact.

12 C. The compact commissioner responsible for the
13 administration and management of the state's participation in the
14 compact shall be appointed by the Governor or as otherwise determined
15 by each member state.

16 D. The compact commissioner and the military family
17 education liaison designated herein shall be ex-officio members of
18 the state council, unless either is already a full voting member of
19 the state council.

20 **ARTICLE IX**

21 **INTERSTATE COMMISSION ON EDUCATIONAL**

22 **OPPORTUNITY FOR MILITARY CHILDREN**

23 The member states hereby create the "Interstate
24 Commission on Educational Opportunity for Military Children." The
25 activities of the Interstate Commission are the formation of public

1 policy and are a discretionary state function. The Interstate
2 Commission shall:

3 A. Be a body corporate and joint agency of the member
4 states and shall have all the responsibilities, powers, and duties
5 set forth herein, and such additional powers as may be conferred upon
6 it by a subsequent concurrent action of the respective legislatures
7 of the member states in accordance with the terms of this compact.

8 B. Consist of one Interstate Commission voting
9 representative from each member state who shall be that state's
10 compact commissioner.

11 1. Each member state represented at a meeting of the
12 Interstate Commission is entitled to one vote.

13 2. A majority of the total member states shall constitute
14 a quorum for the transaction of business, unless a larger quorum is
15 required by the bylaws of the Interstate Commission.

16 3. A representative shall not delegate a vote to another
17 member state. In the event the compact commissioner is unable to
18 attend a meeting of the Interstate Commission, the Governor or state
19 council may delegate voting authority to another person from their
20 state for a specified meeting.

21 4. The bylaws may provide for meetings of the Interstate
22 Commission to be conducted by telecommunication or electronic
23 communication.

24 C. Consist of ex officio, nonvoting representatives who
25 are members of interested organizations. Such ex officio members, as

1 defined in the bylaws, may include, but not be limited to, members of
2 the representative organizations of military family advocates, local
3 education agency officials, parent and teacher groups, the United
4 States Department of Defense, the Education Commission of the States,
5 the Interstate Agreement on the Qualification of Educational
6 Personnel, and other interstate compacts affecting the education of
7 children of military members.

8 D. Meet at least once each calendar year. The chairperson
9 may call additional meetings and, upon the request of a simple
10 majority of the member states, shall call additional meetings.

11 E. Establish an executive committee, whose members shall
12 include the officers of the Interstate Commission and such other
13 members of the Interstate Commission as determined by the bylaws.
14 Members of the executive committee shall serve a one-year term.
15 Members of the executive committee shall be entitled to one vote
16 each. The executive committee shall have the power to act on behalf
17 of the Interstate Commission, with the exception of rulemaking,
18 during periods when the Interstate Commission is not in session. The
19 executive committee shall oversee the day-to-day activities of the
20 administration of the compact including enforcement and compliance
21 with the provisions of the compact, its bylaws and rules, and other
22 such duties as deemed necessary. The United States Department of
23 Defense, shall serve as an ex officio, nonvoting member of the
24 executive committee.

25 F. Establish bylaws and rules that provide for conditions

1 and procedures under which the Interstate Commission shall make its
2 information and official records available to the public for
3 inspection or copying. The Interstate Commission may exempt from
4 disclosure information or official records to the extent they would
5 adversely affect personal privacy rights or proprietary interests.

6 G. Give public notice of all meetings and all meetings
7 shall be open to the public, except as set forth in the rules or as
8 otherwise provided in the compact. The Interstate Commission and its
9 committees may close a meeting, or portion thereof, where it
10 determines by two-thirds vote that an open meeting would be likely
11 to:

12 1. Relate solely to the Interstate Commission's internal
13 personnel practices and procedures;

14 2. Disclose matters specifically exempted from disclosure
15 by federal and state statute;

16 3. Disclose trade secrets or commercial or financial
17 information which is privileged or confidential;

18 4. Involve accusing a person of a crime, or formally
19 censuring a person;

20 5. Disclose information of a personal nature where
21 disclosure would constitute a clearly unwarranted invasion of
22 personal privacy;

23 6. Disclose investigative records compiled for law
24 enforcement purposes; or

25 7. Specifically relate to the Interstate Commission's

1 participation in a civil action or other legal proceeding.

2 H. Cause its legal counsel or designee to certify that a
3 meeting may be closed and shall reference each relevant exemptible
4 provision for any meeting, or portion of a meeting, which is closed
5 pursuant to this provision. The Interstate Commission shall keep
6 minutes which shall fully and clearly describe all matters discussed
7 in a meeting and shall provide a full and accurate summary of actions
8 taken, and the reasons therefore, including a description of the
9 views expressed and the record of a roll call vote. All documents
10 considered in connection with an action shall be identified in such
11 minutes. All minutes and documents of a closed meeting shall remain
12 under seal, subject to release by a majority vote of the Interstate
13 Commission.

14 I. Collect standardized data concerning the educational
15 transition of the children of military families under this compact as
16 directed through its rules which shall specify the data to be
17 collected, the means of collection, and data exchange and reporting
18 requirements. Such methods of data collection, exchange, and
19 reporting shall, in so far as is reasonably possible, conform to
20 current technology and coordinate its information functions with the
21 appropriate custodian of records as identified in the bylaws and
22 rules.

23 J. Create a process that permits military officials,
24 education officials, and parents to inform the Interstate Commission
25 if and when there are alleged violations of the compact or its rules

1 or when issues subject to the jurisdiction of the compact or its
2 rules are not addressed by the state or local education agency. This
3 section shall not be construed to create a private right of action
4 against the Interstate Commission or any member state.

5 ARTICLE X

6 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

7 The Interstate Commission shall have the following
8 powers:

9 A. To provide for dispute resolution among member states.
10 B. To promulgate rules and take all necessary actions to
11 effect the goals, purposes, and obligations as enumerated in this
12 compact. The rules shall have the force and effect of statutory law
13 and shall be binding in the compact states to the extent and in the
14 manner provided in this compact.

15 C. To issue, upon request of a member state, advisory
16 opinions concerning the meaning or interpretation of the interstate
17 compact, its bylaws, rules, and actions.

18 D. To enforce compliance with the compact provisions, the
19 rules promulgated by the Interstate Commission, and the bylaws, using
20 all necessary and proper means, including, but not limited to, the
21 use of judicial process.

22 E. To establish and maintain offices which shall be
23 located within one or more of the member states.

24 F. To purchase and maintain insurance and bonds.

25 G. To borrow, accept, hire, or contract for services of

1 personnel.

2 H. To establish and appoint committees including, but not
3 limited to, an executive committee as required by Article IX, Section
4 E, which shall have the power to act on behalf of the Interstate
5 Commission in carrying out its powers and duties hereunder.

6 I. To elect or appoint such officers, attorneys,
7 employees, agents, or consultants, and to fix their compensation,
8 define their duties, and determine their qualifications; and to
9 establish the Interstate Commission's personnel policies and programs
10 relating to conflicts of interest, rates of compensation, and
11 qualifications of personnel.

12 J. To accept any and all donations and grants of money,
13 equipment, supplies, materials, and services, and to receive,
14 utilize, and dispose of it.

15 K. To lease, purchase, accept contributions or donations
16 of, or otherwise to own, hold, improve or use any property, real,
17 personal, or mixed.

18 L. To sell, convey, mortgage, pledge, lease, exchange,
19 abandon, or otherwise dispose of any property, real, personal, or
20 mixed.

21 M. To establish a budget and make expenditures.

22 N. To adopt a seal and bylaws governing the management
23 and operation of the Interstate Commission.

24 O. To report annually to the legislatures, governors,
25 judiciary, and state councils of the member states concerning the

1 activities of the Interstate Commission during the preceding year.
2 Such reports shall also include any recommendations that may have
3 been adopted by the Interstate Commission.

4 P. To coordinate education, training, and public
5 awareness regarding the compact, its implementation and operation for
6 officials and parents involved in such activity.

7 Q. To establish uniform standards for the reporting,
8 collecting, and exchanging of data.

9 R. To maintain corporate books and records in accordance
10 with the bylaws.

11 S. To perform such functions as may be necessary or
12 appropriate to achieve the purposes of this compact.

13 T. To provide for the uniform collection and sharing of
14 information between and among member states, schools, and military
15 families under this compact.

16 ARTICLE XI

17 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

18 A. The Interstate Commission shall, by a majority of the
19 members present and voting, within twelve months after the first
20 Interstate Commission meeting, adopt bylaws to govern its conduct as
21 may be necessary or appropriate to carry out the purposes of the
22 compact, including, but not limited to:

23 1. Establishing the fiscal year of the Interstate
24 Commission;
25 2. Establishing an executive committee and such other

1 committees as may be necessary;

2 3. Providing for the establishment of committees and for
3 governing any general or specific delegation of authority or function
4 of the Interstate Commission;

5 4. Providing reasonable procedures for calling and
6 conducting meetings of the Interstate Commission and ensuring
7 reasonable notice of each such meeting;

8 5. Establishing the titles and responsibilities of the
9 officers and staff of the Interstate Commission;

10 6. Providing a mechanism for concluding the operations of
11 the Interstate Commission and the return of surplus funds that may
12 exist upon the termination of the compact after the payment and
13 reserving of all of its debts and obligations; and

14 7. Providing "start up" rules for initial administration
15 of the compact.

16 B. The Interstate Commission shall, by a majority of the
17 members, elect annually from among its members a chairperson, a vice-
18 chairperson, and a treasurer, each of whom shall have such authority
19 and duties as may be specified in the bylaws. The chairperson or, in
20 the chairperson's absence or disability, the vice-chairperson, shall
21 preside at all meetings of the Interstate Commission. The officers so
22 elected shall serve without compensation or remuneration from the
23 Interstate Commission; provided that, subject to the availability of
24 budgeted funds, the officers shall be reimbursed for ordinary and
25 necessary costs and expenses incurred by them in the performance of

1 their responsibilities as officers of the Interstate Commission.

2 C. Executive Committee, Officers, and Personnel

3 1. The executive committee shall have such authority and
4 duties as may be set forth in the bylaws, including, but not limited
5 to:

6 a. Managing the affairs of the Interstate Commission in a
7 manner consistent with the bylaws and purposes of the Interstate
8 Commission;

9 b. Overseeing an organizational structure within, and
10 appropriate procedures for the Interstate Commission to provide for
11 the creation of rules, operating procedures, and administrative and
12 technical support functions; and

13 c. Planning, implementing, and coordinating
14 communications and activities with other state, federal, and local
15 government organizations in order to advance the goals of the
16 Interstate Commission.

17 2. The executive committee may, subject to the approval
18 of the Interstate Commission, appoint or retain an executive director
19 for such period, upon such terms and conditions and for such
20 compensation, as the Interstate Commission may deem appropriate. The
21 executive director shall serve as secretary to the Interstate
22 Commission, but shall not be a member of the Interstate Commission.
23 The executive director shall hire and supervise such other persons as
24 may be authorized by the Interstate Commission.

25 D. The Interstate Commission's executive director and its

1 employees shall be immune from suit and liability, either personally
2 or in their official capacity, for a claim for damage to or loss of
3 property or personal injury or other civil liability caused or
4 arising out of or relating to an actual or alleged act, error, or
5 omission that occurred, or that such person had a reasonable basis
6 for believing occurred, within the scope of Interstate Commission
7 employment, duties, or responsibilities; provided, that such person
8 shall not be protected from suit or liability for damage, loss,
9 injury, or liability caused by the intentional or willful and wanton
10 misconduct of such person.

11 1. The liability of the Interstate Commission's executive
12 director and employees or Interstate Commission representatives,
13 acting within the scope of such person's employment or duties for
14 acts, errors, or omissions occurring within such person's state may
15 not exceed the limits of liability set forth under the Constitution
16 and laws of that state for state officials, employees, and agents.
17 The Interstate Commission is considered to be an instrumentality of
18 the states for the purposes of any such action. Nothing in this
19 subsection shall be construed to protect such person from suit or
20 liability for damage, loss, injury, or liability caused by the
21 intentional or willful and wanton misconduct of such person.

22 2. The Interstate Commission shall defend the executive
23 director and its employees and, subject to the approval of the
24 Attorney General or other appropriate legal counsel of the member
25 state represented by an Interstate Commission representative, shall

1 defend such Interstate Commission representative in any civil action
2 seeking to impose liability arising out of an actual or alleged act,
3 error, or omission that occurred within the scope of Interstate
4 Commission employment, duties, or responsibilities, or that the
5 defendant had a reasonable basis for believing occurred within the
6 scope of Interstate Commission employment, duties, or
7 responsibilities, provided that the actual or alleged act, error, or
8 omission did not result from intentional or willful and wanton
9 misconduct on the part of such person.

10 3. To the extent not covered by the state involved,
11 member state, or the Interstate Commission, the representatives or
12 employees of the Interstate Commission shall be held harmless in the
13 amount of a settlement or judgment, including attorney's fees and
14 costs, obtained against such persons arising out of an actual or
15 alleged act, error, or omission that occurred within the scope of
16 Interstate Commission employment, duties, or responsibilities, or
17 that such persons had a reasonable basis for believing occurred
18 within the scope of Interstate Commission employment, duties, or
19 responsibilities, provided that the actual or alleged act, error, or
20 omission did not result from intentional or willful and wanton
21 misconduct on the part of such persons.

22 ARTICLE XII

23 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

24 A. Rulemaking Authority -- The Interstate Commission
25 shall promulgate reasonable rules in order to effectively and

1 efficiently achieve the purposes of this compact. Notwithstanding the
2 foregoing, in the event the Interstate Commission exercises its
3 rulemaking authority in a manner that is beyond the scope of the
4 purposes of this compact, or the powers granted hereunder, then such
5 an action by the Interstate Commission shall be invalid and have no
6 force or effect.

7 B. Rulemaking Procedure -- Rules shall be made pursuant
8 to a rulemaking process that substantially conforms to the "Model
9 State Administrative Procedure Act" of 1981, Uniform Laws Annotated,
10 Vol. 15, p. 1 (2000) as amended, as may be appropriate to the
11 operations of the Interstate Commission.

12 C. Not later than thirty days after a rule is
13 promulgated, any person may file a petition for judicial review of
14 the rule; provided, that the filing of such a petition shall not stay
15 or otherwise prevent the rule from becoming effective unless the
16 court finds that the petitioner has a substantial likelihood of
17 success. The court shall give deference to the actions of the
18 Interstate Commission consistent with applicable law and shall not
19 find the rule to be unlawful if the rule represents a reasonable
20 exercise of the Interstate Commission's authority.

21 D. If a majority of the legislatures of the compacting
22 states rejects a rule by enactment of a statute or resolution in the
23 same manner used to adopt the compact, then such rule shall have no
24 further force and effect in any compacting state.

25 ARTICLE XIII

1 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

2 A. Oversight

3 1. The executive, legislative, and judicial branches of
4 state government in each member state shall enforce this compact and
5 shall take all actions necessary and appropriate to effectuate the
6 compact's purposes and intent. The provisions of this compact and the
7 rules promulgated hereunder shall have standing as statutory law.

8 2. All courts shall take judicial notice of the compact
9 and the rules in any judicial or administrative proceeding in a
10 member state pertaining to the subject matter of this compact which
11 may affect the powers, responsibilities, or actions of the Interstate
12 Commission.

13 3. The Interstate Commission shall be entitled to receive
14 all service of process in any such proceeding, and shall have
15 standing to intervene in the proceeding for all purposes. Failure to
16 provide service of process to the Interstate Commission shall render
17 a judgment or order void as to the Interstate Commission, this
18 compact, or promulgated rules.

19 B. Default, Technical Assistance, Suspension, and
20 Termination -- If the Interstate Commission determines that a member
21 state has defaulted in the performance of its obligations or
22 responsibilities under this compact, or the bylaws or promulgated
23 rules, the Interstate Commission shall:

24 1. Provide written notice to the defaulting state and
25 other member states, of the nature of the default, the means of

1 curing the default, and any action taken by the Interstate
2 Commission. The Interstate Commission shall specify the conditions by
3 which the defaulting state must cure its default.

4 2. Provide remedial training and specific technical
5 assistance regarding the default.

6 3. If the defaulting state fails to cure the default, the
7 defaulting state shall be terminated from the compact upon an
8 affirmative vote of a majority of the member states and all rights,
9 privileges, and benefits conferred by this compact shall be
10 terminated from the effective date of termination. A cure of the
11 default does not relieve the offending state of obligations or
12 liabilities incurred during the period of the default.

13 4. Suspension or termination of membership in the compact
14 shall be imposed only after all other means of securing compliance
15 have been exhausted. Notice of intent to suspend or terminate shall
16 be given by the Interstate Commission to the Governor, the majority
17 and minority leaders of the defaulting state's legislature, and each
18 of the member states.

19 5. The state which has been suspended or terminated is
20 responsible for all assessments, obligations and liabilities incurred
21 through the effective date of suspension or termination including
22 obligations, the performance of which extends beyond the effective
23 date of suspension or termination.

24 6. The Interstate Commission shall not bear any costs
25 relating to any state that has been found to be in default or which

1 has been suspended or terminated from the compact, unless otherwise
2 mutually agreed upon in writing between the Interstate Commission and
3 the defaulting state.

4 7. The defaulting state may appeal the action of the
5 Interstate Commission by petitioning the United States District Court
6 for the District of Columbia or the federal district where the
7 Interstate Commission has its principal offices. The prevailing party
8 shall be awarded all costs of such litigation including reasonable
9 attorney's fees.

10 C. Dispute Resolution

11 1. The Interstate Commission shall attempt, upon the
12 request of a member state, to resolve disputes which are subject to
13 the compact and which may arise among member states and between
14 member and nonmember states.

15 2. The Interstate Commission shall promulgate a rule
16 providing for both mediation and binding dispute resolution for
17 disputes as appropriate.

18 D. Enforcement

19 1. The Interstate Commission, in the reasonable exercise
20 of its discretion, shall enforce the provisions and rules of this
21 compact.

22 2. The Interstate Commission, may by majority vote of the
23 members, initiate legal action in the United States District Court
24 for the District of Columbia or, at the discretion of the Interstate
25 Commission, in the federal district where the Interstate Commission

1 has its principal offices, to enforce compliance with the provisions
2 of the compact, its promulgated rules and bylaws, against a member
3 state in default. The relief sought may include both injunctive
4 relief and damages. In the event judicial enforcement is necessary
5 the prevailing party shall be awarded all costs of such litigation
6 including reasonable attorney's fees.

7 3. The remedies herein shall not be the exclusive
8 remedies of the Interstate Commission. The Interstate Commission may
9 avail itself of any other remedies available under state law or the
10 regulation of a profession.

11 **ARTICLE XIV**

12 **FINANCING OF THE INTERSTATE COMMISSION**

13 A. The Interstate Commission shall pay, or provide for
14 the payment of the reasonable expenses of its establishment,
15 organization, and ongoing activities.

16 B. The Interstate Commission may levy on and collect an
17 annual assessment from each member state to cover the cost of the
18 operations and activities of the Interstate Commission and its staff
19 which must be in a total amount sufficient to cover the Interstate
20 Commission's annual budget as approved each year. The aggregate
21 annual assessment amount shall be allocated based upon a formula to
22 be determined by the Interstate Commission, which shall promulgate a
23 rule binding upon all member states.

24 C. The Interstate Commission shall not incur obligations
25 of any kind prior to securing the funds adequate to meet the same;

1 nor shall the Interstate Commission pledge the credit of any of the
2 member states, except by and with the authority of the member state.

3 D. The Interstate Commission shall keep accurate accounts
4 of all receipts and disbursements. The receipts and disbursements of
5 the Interstate Commission shall be subject to the audit and
6 accounting procedures established under its bylaws. However, all
7 receipts and disbursements of funds handled by the Interstate
8 Commission shall be audited yearly by a certified or licensed public
9 accountant and the report of the audit shall be included in and
10 become part of the annual report of the Interstate Commission.

11 ARTICLE XV

12 MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

13 A. Any state is eligible to become a member state.

14 B. The compact shall become effective and binding upon
15 legislative enactment of the compact into law by no less than ten of
16 the states. The effective date shall be no earlier than December 1,
17 2007. Thereafter it shall become effective and binding as to any
18 other member state upon enactment of the compact into law by that
19 state. The governors of nonmember states or their designees shall be
20 invited to participate in the activities of the Interstate Commission
21 on a nonvoting basis prior to adoption of the compact by all states.

22 C. The Interstate Commission may propose amendments to
23 the compact for enactment by the member states. No amendment shall
24 become effective and binding upon the Interstate Commission and the
25 member states unless and until it is enacted into law by unanimous

1 consent of the member states.

2 ARTICLE XVI

3 WITHDRAWAL AND DISSOLUTION

4 A. Withdrawal

5 1. Once effective, the compact shall continue in force
6 and remain binding upon each and every member state; provided that a
7 member state may withdraw from the compact by specifically repealing
8 the statute, which enacted the compact into law.

9 2. Withdrawal from this compact shall be by the enactment
10 of a statute repealing the same, but shall not take effect until one
11 year after the effective date of such statute and until written
12 notice of the withdrawal has been given by the withdrawing state to
13 the Governor of each other member jurisdiction.

14 3. The withdrawing state shall immediately notify the
15 chairperson of the Interstate Commission in writing upon the
16 introduction of legislation repealing this compact in the withdrawing
17 state. The Interstate Commission shall notify the other member states
18 of the withdrawing state's intent to withdraw within sixty days of
19 its receipt thereof.

20 4. The withdrawing state is responsible for all
21 assessments, obligations and liabilities incurred through the
22 effective date of withdrawal, including obligations, the performance
23 of which extend beyond the effective date of withdrawal.

24 5. Reinstatement following withdrawal of a member state
25 shall occur upon the withdrawing state reenacting the compact or upon

1 such later date as determined by the Interstate Commission.

2 B. Dissolution of Compact

3 1. This compact shall dissolve effective upon the date of
4 the withdrawal or default of the member state which reduces the
5 membership in the compact to one member state.

6 2. Upon the dissolution of this compact, the compact
7 becomes null and void and shall be of no further force or effect, and
8 the business and affairs of the Interstate Commission shall be
9 concluded and surplus funds shall be distributed in accordance with
10 the bylaws.

11 ARTICLE XVII

12 SEVERABILITY AND CONSTRUCTION

13 A. The provisions of this compact shall be severable, and
14 if any phrase, clause, sentence, or provision is deemed
15 unenforceable, the remaining provisions of the compact shall be
16 enforceable.

17 B. The provisions of this compact shall be liberally
18 construed to effectuate its purposes.

19 C. Nothing in this compact shall be construed to prohibit
20 the applicability of other interstate compacts to which the states
21 are members.

22 ARTICLE XVIII

23 BINDING EFFECT OF COMPACT AND OTHER LAWS

24 A. Other Laws

25 1. Nothing herein prevents the enforcement of any other

1 law of a member state that is not inconsistent with this compact.

2 2. All member states' laws conflicting with this compact
3 are superseded to the extent of the conflict.

4 B. Binding Effect of the Compact

5 1. All lawful actions of the Interstate Commission,
6 including all rules and bylaws promulgated by the Interstate
7 Commission, are binding upon the member states.

8 2. All agreements between the Interstate Commission and
9 the member states are binding in accordance with their terms.

10 3. In the event any provision of this compact exceeds the
11 constitutional limits imposed on the legislature of any member state,
12 such provision shall be ineffective to the extent of the conflict
13 with the constitutional provision in question in that member state.

14 Sec. 2. For purposes of the Interstate Compact on
15 Educational Opportunity for Military Children and sections 2 to 6 of
16 this act:

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

19 (2) Department means the State Department of Education;

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

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

24 Sec. 3. The department shall oversee and provide
25 coordination for the state's participation in and compliance with the

1 Interstate Compact on Educational Opportunity for Military Children.
2 The department shall provide staff support for the council created in
3 section 4 of this act.

4 Sec. 4. (1) The State Council on Educational Opportunity
5 for Military Children is created within the department. The council
6 shall consist of:

7 (a) The following ex officio members:
8 (i) The Commissioner of Education;
9 (ii) The chairperson of the Education Committee of the
10 Legislature, who shall serve as a nonvoting member of the council;
11 (iii) The compact commissioner appointed pursuant to
12 section 5 of this act; and

13 (iv) The military family education liaison, who shall
14 serve as a member of the council after his or her appointment
15 pursuant to subsection (3) of this section; and

16 (b) The following members appointed by the State Board of
17 Education:

18 (i) The superintendent of a school district that has a
19 high concentration of children of military families; and
20 (ii) A representative of a military installation located
21 in this state.

22 (2) The members of the council appointed by the State
23 Board of Education shall serve three-year terms. Vacancies in the
24 council shall be filled in the same manner as the initial
25 appointments. The members of the council shall be reimbursed for

1 their actual and necessary expenses as provided in sections 81-1174
2 to 81-1177.

3 (3) The council shall have the following duties:
4 (a) To advise the department with regard to the state's
5 participation in and compliance with the Interstate Compact on
6 Educational Opportunity for Military Children; and
7 (b) To appoint a military family education liaison to
8 assist families and the state in implementing the compact.

9 Sec. 5. The deputy commissioner of education shall serve
10 as the compact commissioner and shall be responsible for
11 administering the state's participation in the Interstate Compact on
12 Educational Opportunity for Military Children.

13 Sec. 6. The department shall distribute amounts from the
14 Education Innovation Fund pursuant to section 9-812 and may accept a
15 devise, donation, or bequest to pay for any or all of the cost of
16 administering the Interstate Compact on Educational Opportunity for
17 Military Children under the authority given to the State Board of
18 Education under section 79-318.

19 Sec. 7. Section 9-812, Revised Statutes Cumulative
20 Supplement, 2010, as amended by section 1, Legislative Bill 333, One
21 Hundred Second Legislature, First Session, 2011, is amended to read:

22 9-812 (1) All money received from the operation of
23 lottery games conducted pursuant to the State Lottery Act in Nebraska
24 shall be credited to the State Lottery Operation Trust Fund, which
25 fund is hereby created. All payments of the costs of establishing and

1 maintaining the lottery games shall be made from the State Lottery
2 Operation Cash Fund. In accordance with legislative appropriations,
3 money for payments for expenses of the division shall be transferred
4 from the State Lottery Operation Trust Fund to the State Lottery
5 Operation Cash Fund, which fund is hereby created. All money
6 necessary for the payment of lottery prizes shall be transferred from
7 the State Lottery Operation Trust Fund to the State Lottery Prize
8 Trust Fund, which fund is hereby created. The amount used for the
9 payment of lottery prizes shall not be less than forty percent of the
10 dollar amount of the lottery tickets which have been sold.

11 (2) Beginning October 1, 2003, a portion of the dollar
12 amount of the lottery tickets which have been sold on an annualized
13 basis shall be transferred from the State Lottery Operation Trust
14 Fund to the Education Innovation Fund, the Nebraska Opportunity Grant
15 Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair
16 Board, and the Compulsive Gamblers Assistance Fund. The dollar amount
17 transferred pursuant to this subsection shall equal the greater of
18 (a) the dollar amount transferred to the funds in fiscal year 2002-03
19 or (b) any amount which constitutes at least twenty-two percent and
20 no more than twenty-five percent of the dollar amount of the lottery
21 tickets which have been sold on an annualized basis. To the extent
22 that funds are available, the Tax Commissioner and director may
23 authorize a transfer exceeding twenty-five percent of the dollar
24 amount of the lottery tickets sold on an annualized basis.

25 (3) Of the money available to be transferred to the

1 Education Innovation Fund, the Nebraska Opportunity Grant Fund, the
2 Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and
3 the Compulsive Gamblers Assistance Fund:

4 (a) The first five hundred thousand dollars shall be
5 transferred to the Compulsive Gamblers Assistance Fund to be used as
6 provided in section 71-817;

7 (b) Nineteen and three-fourths percent of the money
8 remaining after the payment of prizes and operating expenses and the
9 initial transfer to the Compulsive Gamblers Assistance Fund shall be
10 transferred to the Education Innovation Fund;

11 (c) Twenty-four and three-fourths percent of the money
12 remaining after the payment of prizes and operating expenses and the
13 initial transfer to the Compulsive Gamblers Assistance Fund shall be
14 transferred to the Nebraska Opportunity Grant Fund;

15 (d) Forty-four and one-half percent of the money
16 remaining after the payment of prizes and operating expenses and the
17 initial transfer to the Compulsive Gamblers Assistance Fund shall be
18 transferred to the Nebraska Environmental Trust Fund to be used as
19 provided in the Nebraska Environmental Trust Act;

20 (e) Ten percent of the money remaining after the payment
21 of prizes and operating expenses and the initial transfer to the
22 Compulsive Gamblers Assistance Fund shall be transferred to the
23 Nebraska State Fair Board if the most populous city within the county
24 in which the fair is located provides matching funds equivalent to
25 ten percent of the funds available for transfer. Such matching funds

1 may be obtained from the city and any other private or public entity,
2 except that no portion of such matching funds shall be provided by
3 the state. If the Nebraska State Fair ceases operations, ten percent
4 of the money remaining after the payment of prizes and operating
5 expenses and the initial transfer to the Compulsive Gamblers
6 Assistance Fund shall be transferred to the General Fund; and

7 (f) One percent of the money remaining after the payment
8 of prizes and operating expenses and the initial transfer to the
9 Compulsive Gamblers Assistance Fund shall be transferred to the
10 Compulsive Gamblers Assistance Fund to be used as provided in section
11 71-817.

12 (4)(a) The Education Innovation Fund is created. At least
13 seventy-five percent of the lottery proceeds allocated to the
14 Education Innovation Fund shall be available for disbursement.

15 (b) For fiscal year 2010-11, the Education Innovation
16 Fund shall be allocated as follows: The first one million dollars
17 shall be transferred to the Excellence in Teaching Cash Fund to fund
18 the Excellence in Teaching Act, and the amount remaining in the
19 Education Innovation Fund shall be allocated, after administrative
20 expenses, for distance education equipment and incentives pursuant to
21 sections 79-1336 and 79-1337.

22 (c) For fiscal year 2011-12, the Education Innovation
23 Fund shall be allocated as follows: (i) The first two hundred twenty-
24 five thousand dollars shall be transferred to the Excellence in
25 Teaching Cash Fund to fund the Attracting Excellence to Teaching

1 Program; (ii) the next three million three hundred sixty-five
2 thousand nine hundred sixty-two dollars shall be distributed to
3 school districts as grants pursuant to the Early Childhood Education
4 Grant Program; (iii) the next two million one hundred seventy-five
5 thousand six hundred seventy-three dollars shall be distributed to
6 local systems as grants for approved accelerated or differentiated
7 curriculum programs for students identified as learners with high
8 ability pursuant to section 79-1108.02; (iv) the next four hundred
9 ninety-one thousand five hundred forty-one dollars shall be used by
10 the State Department of Education for the development of an
11 integrated early childhood, elementary, secondary, and postsecondary
12 student information system; (v) the next four hundred fifty thousand
13 dollars shall fund the Center for Student Leadership and Extended
14 Learning Act; (vi) the next one hundred fourteen thousand six hundred
15 twenty-nine dollars shall fund the multicultural education program
16 created under section 79-720; (vii) the next one hundred twenty-three
17 thousand four hundred sixty-eight dollars shall be used by the
18 department to employ persons to investigate and prosecute alleged
19 violations as provided in section 79-868; and (viii) the amount
20 remaining shall be allocated, after administrative expenses, for
21 distance education equipment and incentives pursuant to sections
22 79-1336 and 79-1337.

23 (d) For fiscal year 2012-13, the Education Innovation
24 Fund shall be allocated as follows: (i) The first forty-five thousand
25 dollars shall be transferred to the Excellence in Teaching Cash Fund

1 to fund the Attracting Excellence to Teaching Program; (ii) the next
2 three million three hundred sixty-five thousand nine hundred sixty-
3 two dollars shall be distributed to school districts as grants
4 pursuant to the Early Childhood Education Grant Program; (iii) the
5 next two million one hundred seventy-five thousand six hundred
6 seventy-three dollars shall be distributed to local systems as grants
7 for approved accelerated or differentiated curriculum programs for
8 students identified as learners with high ability pursuant to section
9 79-1108.02; (iv) the next one hundred eight thousand one hundred
10 thirty-six dollars shall be used by the department for the
11 development of an integrated early childhood, elementary, secondary,
12 and postsecondary student information system; (v) the next four
13 hundred fifty thousand dollars shall fund the Center for Student
14 Leadership and Extended Learning Act; (vi) the next one hundred
15 fourteen thousand six hundred twenty-nine dollars shall be used by
16 the department to fund the multicultural education program created
17 under section 79-720; (vii) the next one hundred twenty-three
18 thousand four hundred sixty-eight dollars shall be used by the
19 department to employ persons to investigate and prosecute alleged
20 violations as provided in section 79-868; and-(viii) the next twenty-
21 seven thousand two hundred dollars shall be used to fund the
22 Interstate Compact on Educational Opportunity for Military Children;
23 and (ix) the amount remaining shall be allocated, after
24 administrative expenses, for distance education equipment and
25 incentives pursuant to sections 79-1336 and 79-1337.

(e) For fiscal years 2013-14 through 2015-16, the Education Innovation Fund shall be allocated as follows: (i) The first one million dollars shall be transferred to the Excellence in Teaching Cash Fund to fund the Excellence in Teaching Act; (ii) the next allocation shall be distributed to local systems as grants for approved accelerated or differentiated curriculum programs for students identified as learners with high ability pursuant to section 79-1108.02 in an aggregated amount up to the amount distributed in the prior fiscal year for such purposes increased by the basic allowable growth rate pursuant to section 79-1025; (iii) the next allocation shall be used by the State Department of Education for the integrated early childhood, elementary, secondary, and postsecondary student information system in an aggregated amount up to the amount used in the prior fiscal year for such purposes increased by the basic allowable growth rate pursuant to section 79-1025; (iv) the next allocation shall fund the Center for Student Leadership and Extended Learning Act in an aggregated amount up to the amount used in the prior fiscal year for such purposes increased by the basic allowable growth rate pursuant to section 79-1025; (v) the next allocation shall be used by the department to fund the multicultural education program created under section 79-720 in an aggregated amount up to the amount used in the prior fiscal year for such purposes increased by the basic allowable growth rate pursuant to section 79-1025; (vi) the next allocation shall be used by the department to employ persons to investigate and prosecute alleged

1 violations as provided in section 79-868 in an aggregated amount up
2 to the amount used in the prior fiscal year for such purposes
3 increased by the basic allowable growth rate pursuant to section
4 79-1025; and (vii) the amount remaining shall be allocated, after
5 administrative expenses, for distance education equipment and
6 incentives pursuant to sections 79-1336 and 79-1337.

7 (f) For fiscal year 2016-17 and each fiscal year
8 thereafter, the Education Innovation Fund shall be allocated, after
9 administrative expenses, for education purposes as provided by the
10 Legislature.

11 (5) Any money in the State Lottery Operation Trust Fund,
12 the State Lottery Operation Cash Fund, the State Lottery Prize Trust
13 Fund, or the Education Innovation Fund available for investment shall
14 be invested by the state investment officer pursuant to the Nebraska
15 Capital Expansion Act and the Nebraska State Funds Investment Act.

16 (6) Unclaimed prize money on a winning lottery ticket
17 shall be retained for a period of time prescribed by rules and
18 regulations. If no claim is made within such period, the prize money
19 shall be used at the discretion of the Tax Commissioner for any of
20 the purposes prescribed in this section.

21 Sec. 8. Section 79-318, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 79-318 The State Board of Education shall:

24 (1) Appoint and fix the compensation of the Commissioner
25 of Education;

1 (2) Remove the commissioner from office at any time for
2 conviction of any crime involving moral turpitude or felonious act,
3 for inefficiency, or for willful and continuous disregard of his or
4 her duties as commissioner or of the directives of the board;

5 (3) Upon recommendation of the commissioner, appoint and
6 fix the compensation of a deputy commissioner and all professional
7 employees of the board;

8 (4) Organize the State Department of Education into such
9 divisions, branches, or sections as may be necessary or desirable to
10 perform all its proper functions and to render maximum service to the
11 board and to the state school system;

12 (5) Provide, through the commissioner and his or her
13 professional staff, enlightened professional leadership, guidance,
14 and supervision of the state school system, including educational
15 service units. In order that the commissioner and his or her staff
16 may carry out their duties, the board shall, through the
17 commissioner: (a) Provide supervisory and consultation services to
18 the schools of the state; (b) issue materials helpful in the
19 development, maintenance, and improvement of educational facilities
20 and programs; (c) establish rules and regulations which govern
21 standards and procedures for the approval and legal operation of all
22 schools in the state and for the accreditation of all schools
23 requesting state accreditation. All public, private, denominational,
24 or parochial schools shall either comply with the accreditation or
25 approval requirements prescribed in this section and section 79-703

1 or, for those schools which elect not to meet accreditation or
2 approval requirements, the requirements prescribed in subsections (2)
3 through (6) of section 79-1601. Standards and procedures for approval
4 and accreditation shall be based upon the program of studies,
5 guidance services, the number and preparation of teachers in relation
6 to the curriculum and enrollment, instructional materials and
7 equipment, science facilities and equipment, library facilities and
8 materials, and health and safety factors in buildings and grounds.
9 Rules and regulations which govern standards and procedures for
10 private, denominational, and parochial schools which elect, pursuant
11 to the procedures prescribed in subsections (2) through (6) of
12 section 79-1601, not to meet state accreditation or approval
13 requirements shall be as described in such section; (d) institute a
14 statewide system of testing to determine the degree of achievement
15 and accomplishment of all the students within the state's school
16 systems if it determines such testing would be advisable; (e)
17 prescribe a uniform system of records and accounting for keeping
18 adequate educational and financial records, for gathering and
19 reporting necessary educational data, and for evaluating educational
20 progress; (f) cause to be published laws, rules, and regulations
21 governing the schools and the school lands and funds with explanatory
22 notes for the guidance of those charged with the administration of
23 the schools of the state; (g) approve teacher education programs
24 conducted in Nebraska postsecondary educational institutions designed
25 for the purpose of certificating teachers and administrators; (h)

1 approve certificated-employee evaluation policies and procedures
2 developed by school districts and educational service units; and (i)
3 approve general plans and adopt educational policies, standards,
4 rules, and regulations for carrying out the board's responsibilities
5 and those assigned to the State Department of Education by the
6 Legislature;

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

23 (7) Submit a biennial report to the Governor and the
24 Clerk of the Legislature covering the actions of the board, the
25 operations of the State Department of Education, and the progress and

1 needs of the schools and recommend such legislation as may be
2 necessary to satisfy these needs;

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

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

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

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

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

21 (13) With the advice of the Department of Motor Vehicles,
22 adopt and promulgate rules and regulations containing reasonable
23 standards, not inconsistent with existing statutes, governing: (a)
24 The general design, equipment, color, operation, and maintenance of
25 any vehicle with a manufacturer's rated seating capacity of eleven or

1 more passengers used for the transportation of public, private,
2 denominational, or parochial school students; and (b) the equipment,
3 operation, and maintenance of any vehicle with a capacity of ten or
4 less passengers used for the transportation of public, private,
5 denominational, or parochial school students, when such vehicles are
6 owned, operated, or owned and operated by any public, private,
7 denominational, or parochial school or privately owned or operated
8 under contract with any such school in this state, except for
9 vehicles owned by individuals operating a school which elects
10 pursuant to section 79-1601 not to meet accreditation or approval
11 requirements. Similar rules and regulations shall be adopted and
12 promulgated for operators of such vehicles as provided in section
13 79-607;

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

22 (15) Accept, in order to administer the Interstate
23 Compact on Educational Opportunity for Military Children, any devise,
24 donation, or bequest received by the State Department of Education
25 pursuant to section 6 of this act; and

1 (15)-(16) Upon acceptance of any devise, donation, or
2 bequest as provided in this section, administer and carry out such
3 devise, donation, or bequest in accordance with the terms and
4 conditions thereof. If not prohibited by the terms and conditions of
5 any such devise, donation, or bequest, the board may sell, convey,
6 exchange, or lease property so devised, donated, or bequeathed upon
7 such terms and conditions as it deems best and remit all money
8 derived from any such sale or lease to the State Treasurer for credit
9 to the State Department of Education Trust Fund.

10 Each member of the Legislature shall receive a copy of
11 the report required by subdivision (7) of this section by making a
12 request for it to the commissioner.

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

17 Sec. 9. This act becomes operative on July 1, 2012.

18 Sec. 10. Original section 79-318, Revised Statutes
19 Cumulative Supplement, 2010, and section 9-812, Revised Statutes
20 Cumulative Supplement, 2010, as amended by section 1, Legislative
21 Bill 333, One Hundred Second Legislature, First Session, 2011, are
22 repealed.