

## LEGISLATIVE BILL 900

Approved by the Governor February 29, 1996

Introduced by Bohlke, 33

AN ACT relating to education; to amend sections 2-4722, 10-209, 13-903 to 13-907, 13-909, 13-912, 13-913, 13-915, 13-917, 13-918, 13-923 to 13-925, 29-2271, 29-2272, 30-3209, 43-2007, 43-2505, 43-2507.02, 43-2512, 48-233, 58-238, 58-319, 58-412, 71-1623, 73-106, 79-101 to 79-102.02, 79-105, 79-106, 79-201 to 79-202, 79-205 to 79-211, 79-213 to 79-216, 79-301, 79-304, 79-305, 79-307, 79-321, 79-321.01, 79-321.03, 79-322 to 79-333, 79-339, 79-342 to 79-345, 79-401, 79-402, 79-402.03 to 79-402.20, 79-403 to 79-403.03, 79-406 to 79-426.19, 79-426.22 to 79-426.28, 79-428 to 79-430, 79-432 to 79-435, 79-437.03, 79-438.12, 79-438.13, 79-439, 79-440, 79-441, 79-442.01 to 79-443.01, 79-444.01 to 79-444.05, 79-444.07, 79-445, 79-446, 79-449.01, 79-450 to 79-461, 79-466 to 79-467.01, 79-469, 79-470, 79-478 to 79-488.01, 79-488.03 to 79-492, 79-4,105.01, 79-4,106.01 to 79-4,107, 79-4,114, 79-4,117, 79-4,119 to 79-4,123, 79-4,125 to 79-4,127, 79-4,128.01, 79-4,128.02, 79-4,133 to 79-4,150, 79-4,152 to 79-4,159, 79-4,170 to 79-4,176, 79-4,177 to 79-4,179, 79-4,181 to 79-4,194, 79-4,197 to 79-4,205.02, 79-4,207, 79-4,221, 79-4,222, 79-4,224 to 79-4,247, 79-501 to 79-504, 79-505, 79-507 to 79-512, 79-516.01, 79-516.04, 79-516.06, 79-516.08, 79-519, 79-521, 79-530, 79-532 to 79-538, 79-541 to 79-545, 79-546.01, 79-547.02, 79-547.04, 79-550, 79-552, 79-601 to 79-604, 79-606 to 79-610, 79-701, 79-703.01, 79-801 to 79-802, 79-803.03, 79-803.05, 79-803.11, 79-805, 79-807, 79-809, 79-810.01, 79-901, 79-902.01, 79-904, 79-906 to 79-912, 79-1001 to 79-1003.02, 79-1003.04 to 79-1004.04, 79-1005 to 79-1007.05, 79-1033, 79-1035 to 79-1039, 79-1041, 79-1042, 79-1044, 79-1047 to 79-1049.05, 79-1050 to 79-1051.02, 79-1051.05, 79-1051.07, 79-1052, 79-1056.05, 79-1058, 79-1060 to 79-1070, 79-1101, 79-1103, 79-1103.05 to 79-1111, 79-1229, 79-1236, 79-1239, 79-1240, 79-1247.03, 79-1247.04, 79-1247.06 to 79-1247.11, 79-1247.13, 79-1247.16, 79-1248 to 79-1253, 79-1254.01 to 79-1254.03, 79-1254.05 to 79-1254.10, 79-1268, 79-1269, 79-1272 to 79-1286, 79-1297 to 79-12,121.03, 79-12,153, 79-1301 to 79-1313, 79-1315 to 79-1328, 79-1346, 79-1369, 79-1371 to 79-1374, 79-1384, 79-1385, 79-1415, 79-1416, 79-1418 to 79-1423, 79-1428, 79-1429, 79-1429, 79-1435.01 to 79-1435.03, 79-1446 to 79-1457, 79-1501, 79-1502, 79-1503.02, 79-1505, 79-1506, 79-1508 to 79-1509.03, 79-1510 to 79-1514.02, 79-1514.05, 79-1514.06, 79-1515 to 79-1522.02, 79-1523 to 79-1530, 79-1532 to 79-1538, 79-1540, 79-1542, 79-1544 to 79-1546, 79-1548 to 79-1553, 79-1556 to 79-1567, 79-1701, 79-1701.01, 79-1703 to 79-1707, 79-1901 to 79-1904, 79-1907, 79-1908, 79-1911, 79-1913 to 79-1915, 79-2001 to 79-2007, 79-2010 to 79-2012, 79-2101 to 79-2103, 79-2104, 79-2105, 79-2106.01, 79-2109 to 79-2114, 79-2201 to 79-2202, 79-2202.02 to 79-2203, 79-2203.02 to 79-2209, 79-2210.01 to 79-2210.04, 79-2212 to 79-2221, 79-2301 to 79-2315, 79-2317, 79-2501 to 79-2504, 79-2701 to 79-2703, 79-3001 to 79-3011, 79-3302 to 79-3318, 79-3320, 79-3321, 79-3323, 79-3324, 79-3326 to 79-3331, 79-3332.01, 79-3334, 79-3335, 79-3337 to 79-3362, 79-3364, 79-3365, 79-3367, 79-3369, 79-3370, 79-3401 to 79-3410, 79-3412 to 79-3417, 79-3501 to 79-3509.01, 79-3509.03, 79-3510, 79-3601 to 79-3606, 79-3701 to 79-3703, 79-3802, 79-3805, 79-3807, 79-3808, 79-3810, 79-3811, 79-3815, 79-3817, 79-3818, 79-3820 to 79-3822, 79-3824, 79-3901 to 79-3906, 79-3908 to 79-3910, 79-4001 to 79-4004, 83-382, 83-1225, 84-1301, 84-1408, 84-1410, 84-1412, 84-1414, 85-104, 85-308, 85-607, 85-917, 85-933, 85-949, and 85-1515, Reissue Revised Statutes of Nebraska, sections 13-501, 13-910, 32-312, 32-511, 32-515, 32-541 to 32-546, 32-567, 72-1237.01, 77-2341, and 77-2704.12, Revised Statutes Supplement, 1994, and sections 9-812, 13-508, 43-2513, 43-2620, 71-1910, 72-801, 77-3438, 77-3439, 79-340, 79-346, 79-347, 79-348, 79-349, 79-444, 79-444.06, 79-4,118, 79-4,169, 79-4,176.01, 79-4,179.01, 79-4,180, 79-4,195, 79-4,196, 79-4,248, 79-810, 79-903, 79-1032, 79-1034, 79-1040, 79-1043, 79-1044.01, 79-1045, 79-1046, 79-1046.01, 79-1049.06, 79-1056, 79-1056.06, 79-1233, 79-1247.05, 79-1345, 79-1501.01, 79-1503, 79-1503.01, 79-1514.10, 79-1514.11, 79-1522.04, 79-1522.05, 79-1531, 79-1910.01, 79-2009.01, 79-2103.01,

79-2106, 79-2107, 79-2108, 79-2210, 79-2225, 79-3301, 79-3322, 79-3325, 79-3332, 79-3333, 79-3333.01, 79-3363, 79-3366, 79-3368, 79-3371, 79-3509.02, 79-3801, 79-3803, 79-3804, 79-3806, 79-3806.02, 79-3809, 79-3811.01 to 79-3814, 79-3816, 79-3819, 79-3823, 83-121, 84-304, 84-1503.01, 84-1511, 85-1517, and 90-511, Revised Statutes Supplement, 1995; to transfer, combine, and eliminate sections; to eliminate obsolete and expired provisions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 79-445.01, 79-522, 79-703, 79-806, 79-905, 79-1112, 79-1916 to 79-1919, 79-2222 to 79-2224, 79-3319, and 79-3907, Reissue Revised Statutes of Nebraska.

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

#### ARTICLE 1 - DEFINITIONS AND CLASSIFICATIONS

Section 1. Section 79-101, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-101.~~ For purposes of Chapter 79:

- (1) School district ~~shall mean~~ means the territory under the jurisdiction of a single school board authorized by Chapter 79;
- (2) School ~~shall mean~~ means a school under the jurisdiction of a school board authorized by Chapter 79;
- (3) Legal voters or electors ~~shall mean~~ means all who are eligible to vote at an election for school district officers;
- (4) Prekindergarten programs ~~shall mean~~ means all early childhood programs provided for children who have not reached the age of five by October 15 of the current school year;
- (5) Elementary grades ~~shall mean~~ means grades kindergarten through eight, inclusive;
- (6) High school grades ~~shall mean~~ means all grades above the eighth grade;
- (7) School year ~~shall mean~~ means (a) for elementary grades other than kindergarten, the time equivalent to at least one thousand thirty-two instructional hours and (b) for high school grades, the time equivalent to at least one thousand eighty instructional hours;
- (8) Instructional hour ~~shall mean~~ means a period of time, at least sixty minutes, which is actually used for the instruction of students;
- (9) Deaf pupil ~~shall mean~~ means any person of sound mind who by reason of defective hearing cannot profitably be educated in the public schools;
- ~~(10) Teacher shall mean means~~ any certified employee who is regularly employed for the instruction of pupils in the public schools;
- ~~(11) (10) Administrator shall mean means~~ any certified employee such as superintendent, assistant superintendent, principal, assistant principal, school nurse, or other supervisory or administrative personnel who ~~does~~ do not have as a primary duty the instruction of pupils in the public schools;
- ~~(12) (11) School board or board of education shall mean means~~ the governing body of any school district; and
- ~~(13) (12) Teach shall mean and include, but not be means and includes, but is not limited to,~~ the following responsibilities: (a) The organization and management of the classroom or the physical area in which the learning experiences of pupils take place; (b) the assessment and diagnosis of the individual educational needs of the pupils; (c) the planning, selecting, organizing, prescribing, and directing of the learning experiences of pupils; (d) the planning of teaching strategies and the selection of available materials and equipment to be used; and (e) the evaluation and reporting of student progress.

The State Board of Education shall adopt and promulgate rules and regulations to define school day, school month, and other appropriate units of the school calendar.

Sec. 2. Section 79-102, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-102.~~ School districts in this state are classified as follows:

- (1) Class I ~~shall include~~ includes any school district that maintains only elementary grades under the direction of a single school board;
- (2) Class II ~~shall include~~ includes any school district embracing territory having a population of one thousand inhabitants or less that maintains both elementary and high school grades under the direction of a single school board;
- (3) Class III ~~shall include~~ includes any school district embracing territory having a population of more than one thousand and less than one hundred thousand inhabitants that maintains both elementary and high school grades under the direction of a single board of education;

(4) Class IV ~~shall include~~ includes any school district embracing territory having a population of one hundred thousand or more and less than two hundred thousand inhabitants that maintains both elementary and high school grades under the direction of a single board of education;

(5) Class V ~~shall include~~ includes any school district embracing territory having a population of two hundred thousand or more that maintains both elementary grades and high school grades under the direction of a single board of education; and

(6) Class VI ~~shall include~~ includes any school district in this state that maintains only a high school or a high school and grades seven and eight as provided in section 160 of this act.

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

~~79-105.~~ The number of inhabitants in any school district shall, for the purpose of determining the class to which such district belongs, be the number of inhabitants ascertained by the most recent United States census or by a certified census taken of the district at the direction of the district school board or board of education of the school district and approved by the State Board of Education. The school board or board of education of any school district is authorized to contract for a special United States Census of the district if the board determines that such a census is necessary.

Sec. 4. Section 79-106, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-106.~~ Whenever any school district of the second, third, or fourth class shall attain the number of inhabitants which shall require its classification as a school district of the third, fourth, or fifth class Class II, III, or IV school district attains the number of inhabitants which requires its reclassification as a Class III, IV, or V school district, respectively, the Commissioner of Education shall ~~forthwith~~ reclassify such district as a district of the next higher class. A Class III school district of the third class may be reclassified as a Class II school district of the second class, upon application of the board of education of such district, if the commissioner finds that the number of inhabitants of such district has decreased to the level established for Class II school districts, of the second class. Any reclassification pursuant to this section shall become effective at the beginning of the next fiscal year after the order of the commissioner. Within fifteen days of after the reclassification of any school district, the commissioner shall notify the county clerk or election commissioner, of the county in which the greatest number of electors in the school district reside, of such change in classification and the effective date of such change.

## ARTICLE 2 - PROVISIONS RELATING TO STUDENTS PART (a) - COMPULSORY EDUCATION

Sec. 5. Section 79-201, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201.~~ Every Except as provided in section 6 of this act, every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child not less than seven ~~nor~~ years of age and not more than sixteen years of age shall cause such child to attend regularly the public, private, denominational, or parochial day schools which ~~have met~~ meet the requirements for legal operation prescribed in Chapter 79 each day that such schools are open and in session, except when excused by school authorities, unless such child has been graduated from high school. The school term shall be as provided in section 15 of this act, not be less than (1) one thousand thirty-two instructional hours for elementary grades and (2) one thousand eighty instructional hours for high school grades in any public school district or private, denominational, or parochial school, except that in the event of the failure of any district which receives twenty percent or more of its total receipts for general fund purposes from federal sources to actually receive receipts anticipated at the time of the adoption of the school budget from taxes, state funds, federal funds, tuition, or other sources, the board of education of such district may, at any time during the school year, elect to close all or part of its schools.

Sec. 6. Section 79-202, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-202.~~ Section 79-201 shall not apply where the services or earnings of a child, who is fourteen years or more of age and has completed the work of the eighth grade, are necessary for his own support or the support of those actually dependent upon him, or when illness or severe weather conditions make attendance impossible or impracticable. Section 5 of this act

does not apply when the services or earnings of a child are necessary for his or her own support or the support of those actually dependent upon him or her, if the child is fourteen years of age or more and not more than sixteen years of age and has completed the work of the eighth grade, or when illness or severe weather conditions make attendance impossible or impracticable.

Sec. 7. Section 79-205, Reissue Revised Statutes of Nebraska, is amended to read:

79-205- In case the services or earnings of a child ~~who is fourteen years are necessary for his or her own support or the support of those actually dependent upon him or her~~ and the child is fourteen years of age or more and not more than sixteen years of age and has completed the work of the eighth grade, are necessary for his own support or the support of those actually dependent upon him; the person having legal or actual charge of such child, ~~who has completed the work of the eighth grade,~~ may apply to the county superintendent of schools of the county in which the child resides; and the county superintendent may, in his or her discretion, issue a permit allowing such child to be employed.

Sec. 8. Section 79-206, Reissue Revised Statutes of Nebraska, is amended to read:

79-206- All children who are fourteen years of age or more and not more than sixteen years of age, residing in districts where who reside in a school district in which a part-time continuation school is maintained by authority of the public school district; and who are granted permits to be employed under the provisions of section 79-205 7 of this act, shall be required to attend a public, private, denominational, or parochial part-time continuation school eight hours of each week during the entire school year.

Sec. 9. Section 79-207, Reissue Revised Statutes of Nebraska, is amended to read:

79-207- Each teacher in the public, private, denominational, and parochial schools of this state shall keep a record showing (1) the name, age, and address of each child enrolled, (2) the number and county of the school district in which ~~said~~ the school is located, (3) the number of days each pupil was present and the number of days absent, and (4) the cause of absence. On the third day on which the public, private, denominational, and parochial schools are in session at the beginning of each school year, each teacher in a Class I district shall send to the county superintendent a list of the pupils enrolled in his or her school with the age, grade, and address of each; and in all other districts such report shall be made to the superintendent of such district.

Sec. 10. Section 79-208, Reissue Revised Statutes of Nebraska, is amended to read:

79-208- Each county or city superintendent or superintendent of schools of a school district, upon the receipt of the list specified in section 79-207 9 of this act, shall (1) compare the names of the children enrolled with the last census report on file in his or her office from such district, (2) prepare a list of all children resident in such district under his or her jurisdiction who are not attending school as provided in section 79-201 5 of this act, and (3) transmit the list to the officer or officers in such district whose duty it is to enforce the provisions of said such section.

Sec. 11. Section 79-209, Reissue Revised Statutes of Nebraska, is amended to read:

79-209- Whenever any child shall enter or withdraw enters or withdraws from any school after the third day in which school is in session, the teacher shall transmit at once the name of such child to the county or city superintendent as specified in section 79-207, who 10 of this act and the superintendent shall use such information in whatever way he shall deem or she deems necessary for the purpose of enforcing section 79-201 5 of this act. At the end of each week each teacher shall report all absences and the cause of absence to the proper superintendent. At the close of each period each teacher shall transmit to said the superintendent a report showing (1) the name, age, and address of each child enrolled, (2) the number of half days each child was absent, (3) the number enrolled and the number attending on the last day of the period, and (4) the average daily attendance for the period. The provisions of this section requiring reports from each teacher shall not apply to individual teachers in schools employing more than one teacher; but shall in such case apply to the head teacher, principal, or superintendent; who shall obtain the required information from the teachers under his or her supervision or control. All reports and lists required in this section shall be upon blanks prescribed by the State Department of Education.

Sec. 12. Section 79-210, Reissue Revised Statutes of Nebraska, is amended to read:

79-210- Boards of education in Class III, Class IV, and Class V

school districts of the third, fourth, and fifth classes shall appoint one or more attendance officers who shall be vested with police powers and shall enforce the provisions of section 79-201 5 of this act in the districts for which they severally act. In each county of the state the county superintendent of schools shall act as attendance officer or shall appoint one or more attendance officers, with the approval of the county board, who shall be vested with police powers, and shall enforce the provisions of said such section in districts of the first, second, and sixth classes Class I, Class II, and Class VI school districts. Attendance officers for Class III, Class IV, and Class V school districts of the third, fourth, and fifth classes shall be compensated for their services in such sums as shall be are determined by the board of education, to be paid out of the general school fund of the district. County attendance officers shall be compensated for their services in such sums as shall be are determined by the county board upon recommendation of the county superintendent of schools, to be paid out of the general fund of the county.

Sec. 13. Section 79-211, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-211-~~ In all school districts in this state, any superintendent, principal, teacher, or member of the school board or board of education who knows of any violation of section 79-201 5 of this act on the part of any child of school age, his or her parent, the person in actual or legal control of such child, or any other person shall within three days report such violation to the superintendent of schools in districts having an attendance officer and in other districts to the county superintendent of schools in other districts. Such superintendent shall immediately cause an investigation of the case to be made by the attendance officers. When of his or her personal knowledge, by report or complaint from any resident of the district, or by report or complaint as provided in this section, the attendance officer believes that any child is unlawfully absent from school, he or she the attendance officer shall immediately investigate. The school shall render all services in its power to compel such child to attend some public, private, denominational, or parochial school, which the person having control of the child shall designate, in an attempt to remediate the child's truant behavior. Such services shall include, but need not be limited to:

(1) One or more meetings between a school attendance officer, school social worker, or other person designated by the school administration if such school does not have a school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem, unless the officer or worker has documented the refusal of the parent or guardian to participate in such meetings;

(2) Educational counseling to determine whether curriculum changes, including, but not limited to, enrolling the child in an alternative education program that meets the specific educational and behavioral needs of the child, would help solve the truancy problem;

(3) Educational evaluation, which may include a psychological evaluation, to assist in determining the specific condition, if any, contributing to the truancy problem, supplemented by specific efforts by the school to help remedy any condition diagnosed; and

(4) Investigation of the truancy problem by the school social worker, or if such school does not have a school social worker, by another person designated by the administration, to identify conditions which may be contributing to the truancy problem. If services for the child and his or her family are determined to be needed, the school social worker or other person performing the investigation shall meet with the parent or guardian and the child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truancy problem.

If the child continues to be or becomes habitually truant, the attendance officer shall serve a written notice to the person violating section 79-201 5 of this act, warning him or her to comply with its provisions.

If in within one week after the time such notice is given such person is still violating the section, then such the attendance officer shall file a report with the county attorney of the county in which such person resides. The county attorney may file a complaint against such person before the judge of the county court of the county in which such person resides charging such person with violation of section 79-201 5 of this act. If after such notice has been sent to any person violating such section such person again violates the same section, no written notice shall be required but a complaint may be filed at once.

Sec. 14. Section 79-216, Reissue Revised Statutes of Nebraska, is amended to read:

79-216. Any person violating the provisions of sections 79-201 to 79-215 5 to 13 of this act shall be guilty of a Class III misdemeanor.

ARTICLE 2

PART (b) - MINIMUM SCHOOL TERM

Sec. 15. The school term shall not be less than (1) one thousand thirty-two instructional hours for elementary grades and (2) one thousand eighty-two instructional hours for high school grades in any public school district or private, denominational, or parochial school. If any district which receives twenty percent or more of its total receipts for general fund purposes from federal sources fails to actually receive receipts anticipated at the time of the adoption of the school budget from taxes, state funds, federal funds, tuition, or other sources, the school board or board of education of such district may, at any time during the school year, elect to close all or part of its schools.

Sec. 16. Section 79-201.10, Reissue Revised Statutes of Nebraska, is amended to read:

79-201-10. The school board or board of education of any school district offering a kindergarten program shall provide a program of at least four hundred clock hours each school year.

Sec. 17. Section 79-470, Reissue Revised Statutes of Nebraska, is amended to read:

79-470. No school district shall receive any portion of state funds pursuant to the Tax Equity and Educational Opportunities Support Act, unless school has been actually taught therein in the district by a legally certificated teacher for the length of time required by law or unless the pupils residing therein in the district have attended school in another district for the length of time required by law. At the discretion of the State Board of Education, the closing of a school shall not prevent a district from receiving its proper share of state funds when epidemic sickness or severe storm conditions prevail to such an extent that the school board or board of education in any district deems it advisable to close any or all schools within the district or when the destruction of the schoolhouse makes it impossible to continue the school. Such sickness, storm conditions, or destruction of the schoolhouse shall be sworn to by the secretary of the school board and the oath filed with the county superintendent and with the State Board of Education within ten days after the school board or board of education of the school district closes the school.

ARTICLE 2

PART (c) - ADMISSION REQUIREMENTS

Sec. 18. Section 79-444, Revised Statutes Supplement, 1995, is amended to read:

79-444. (1) Except as provided in subsection (2) of this section, the school board or board of education of any school district shall not admit any child into the kindergarten or beginner grade of any school of such school district unless such child has reached the age of five years or will reach such age on or before October 15 of the current year.

(2) The board of education may admit a child who will reach the age of five between October 16 and February 1 of the current school year if the parent or guardian requests such entrance and provides an affidavit stating that (a) the child attended kindergarten in another jurisdiction in the current school year or (b) the family anticipates a relocation to another jurisdiction within the current year.

(3) The board of education may require a birth certificate prior to entrance of a child into the beginner grade and shall require evidence of a physical examination by a physician, physician assistant, or nurse practitioner within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school, except that no such physical examination shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination shall be borne by the parent or guardian of each child who is examined.

(4) Any board of education in its discretion may (a) establish and financially support programs, including programs providing before-and-after-school or preschool services, to which attendance shall be voluntary and which the board may deem beneficial to the education of prekindergarten or school-age children and (b) provide or financially support transportation for children to, from, or to and from programs as defined in section 71-1910. The board may charge a fee, not to exceed the actual cost,

for providing such programs and services but may waive such fee on the basis of need. This section shall not be construed to allow any school district to fail to meet its responsibilities under the Special Education Act.

Sec. 19. Section 79-445, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-445-~~ (1) A school board or board of education may admit nonresident pupils to the school district, may determine the rate of tuition of the pupils, and shall collect such tuition in advance except as otherwise provided in this section.

(2) When the pupil as a ward of the state or as a ward of any court (a) has been placed in a school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a foster family home licensed or approved by the Department of Social Services or a foster home maintained or used by the Department of Correctional Services pursuant to section 83-108.04 or (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the pupil's resident school district, the cost of his or her education and the required transportation costs associated with the child's education shall be paid by the state, but not in advance, to the receiving school district or approved institution under rules and regulations prescribed by the Department of Social Services. Any pupil who is a ward of the state or a ward of any court who resides in a foster family home licensed or approved by the Department of Social Services or a foster home maintained or used by the Department of Correctional Services pursuant to section 83-108.04 shall be deemed a resident of the district in which the foster family home or foster home is located.

(3) In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of such individual's district of residency, to the agency or institution which: (a) Is selected by the county board with jurisdiction over such detention home; (b) has agreed or contracted with such county board to provide educational services; and (c) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

(4) No tuition shall be charged for children who may be by law allowed to attend the school without charge. The school district in which the parent or guardian of any nonresident pupil maintains his or her legal residence shall not be liable for the payment of tuition and the children of school age of such parent or guardian shall be entitled to free common school privileges the same as any child who is a bona fide resident of such school district whenever the parent or guardian of such nonresident pupil, having entered the public service of the State of Nebraska, has moved from the school district in which he or she maintains legal residence into another school district for temporary purposes incidental to serving the state, without the intention of making the school district to which the parent or guardian has moved his or her legal residence. No tuition shall be charged for a child whose parents are divorced if such child attends school in a district in which either parent resides. The burden of proof as to legal residence shall rest with the person claiming legal residence in any district. The school district may allow a pupil whose residency in the district ceases during a school year to continue attending school for the remainder of that school year without payment of tuition.

(5) The school board or board of education may admit nonresident pupils to the school district without requiring the payment of tuition if such pupils are in the actual physical custody of a resident of the school district and are not residents of an adjoining school district and the school board or board of education board determines that the pupils would otherwise be denied guaranteed free common school privileges.

(6) The changes made to this section by Laws 1992, LB 3, Ninety-second Legislature, Third Special Session, shall apply to all reimbursements under this section for school year 1992-93 and all school years thereafter.

Sec. 20. Section 79-446, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-446-~~ In all cases when any officer or enlisted member of the United States Army, Navy, Marine Corps, or Air Force is on active duty in the State of Nebraska and is residing on property acquired by the United States pursuant to Chapter 72, article 6, prior to the repeal of such article by Laws 1969, Chapter 593, the children of any such officer or enlisted member who are of school age may be admitted to any of the public schools in any school

district, in, near, or adjacent to the place where such officer or enlisted member is stationed so long as such officer or enlisted member may be is on active duty in Nebraska, and such children may be admitted to the public schools of any such district without payment of tuition.

The provisions of this section shall also apply This section also applies to children of parents employed by the federal government and residing with their parents on national parks or national monuments within this state.

Sec. 21. Section 79-444.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-444.01- Except as provided in sections 79-444.06 and 79-444.07, each 25 and 26 of this act, the school board or board of education and the of each school district and the governing authority of each private, denominational, or parochial school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to enrollment. Any 7 and any student who does not comply with this section shall not be permitted to continue in school until he or she shall so comply so complies, except as provided by section 79-444.07 26 of this act. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

Except as provided in the Childhood Vaccine Act, the cost of such immunization shall be borne by the parent or guardian of each student who is immunized or by the Department of Health for those students whose parent or guardian is financially unable to meet such cost.

Sec. 22. Section 79-444.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-444.02- Any local school board or board of education of a school district or the governing authority of a private, denominational, or parochial school in this state may request assistance from the Department of Health in establishing immunization clinics. Such assistance shall consist of vaccines, serums, and other supplies, services, and guidance from the Director of Health.

Sec. 23. Section 79-444.03, Reissue Revised Statutes of Nebraska, is amended to read:

79-444.03- The Department of Health shall adopt and promulgate rules and regulations relating to the required levels of protection, provisional enrollment under the provisions of section 79-444.07 26 of this act, the evidence necessary to prove that the required examination or immunization has been received, and the reporting of each student's immunization status. The department may modify, add to, or delete from the list of required immunizations set out in section 79-444.01 21 of this act. The department shall furnish local school authorities with copies of such rules and regulations and any other material which will assist in the carrying out of sections 79-444 to 79-444.07 18 and 21 to 27 of this act.

Sec. 24. Section 79-444.04, Reissue Revised Statutes of Nebraska, is amended to read:

79-444.04- At the time the parent or guardian of any child is notified that such child must have a physical examination pursuant to section 79-444, 18 of this act or immunizations pursuant to section 79-444.01 21 of this act, he or she shall also be notified in writing of his or her right to submit a written statement refusing a physical examination or immunization for his or her child.

Sec. 25. Section 79-444.06, Revised Statutes Supplement, 1995, is amended to read:

79-444.06- Immunization shall not be required for a student's enrollment in any school in this state if he or she submits to the admitting official either of the following:

(1) A statement signed by a physician, physician assistant, or nurse practitioner stating that, in the health care provider's opinion, the immunizations required would be injurious to the health and well-being of the student or any member of the student's family or household; or

(2) An affidavit signed by the student or, if he or she is a minor, by a legally authorized representative of the student, stating that the immunization conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member or that immunization conflicts with the personal and sincerely followed religious beliefs of the student.

Sec. 26. Section 79-444.07, Reissue Revised Statutes of Nebraska, is amended to read:

79-444.07- (1) A student may be provisionally enrolled in a school in Nebraska if he or she meets either of the following qualifications:

(a) The student has begun the immunizations required under section

~~79-444-01~~ 21 of this act and is receiving the necessary immunizations as rapidly as is medically feasible; or

(b) The student is the child or legal ward of an officer or enlisted person on active duty in any branch of the military services of the United States or of his or her spouse, enrolling in a Nebraska school following residence in another state or in a foreign country.

(2) As a condition for the provisional enrollment of a student qualified for such enrollment under subdivision (1)(b) of this section, a parent or adult legal guardian of the student shall provide the school with a signed written statement certifying that the student has completed the course of immunizations required by section ~~79-444-01~~ 21 of this act.

(3) The provisional enrollment of a student qualified for such enrollment under subdivision (1)(b) of this section shall not continue beyond sixty days from the date of such enrollment. At such time the school shall be provided, with regard to the student, written evidence of compliance with section ~~79-444-01~~ 21 of this act. The student shall not be permitted to continue in school until such evidence of compliance is provided.

Sec. 27. Section 79-444.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-444-05.~~ Any person violating the provisions of sections ~~79-444-79-444-01,~~ and ~~79-444-03~~ to 79-444-05 ~~section 18, 21, 23, or 24 of this act~~ shall be guilty of a Class V misdemeanor.

## ARTICLE 2

### PART (d) - TRANSFER OF PUPILS

Sec. 28. Section 79-478, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-478.~~ When children students of school age, who have not yet completed the eighth grade, reside with their parents or guardians (1) more than one and one-half miles from the schoolhouse in their the students' own district, and nearer to the schoolhouse in another district, the distance to be measured by the shortest route possible upon section lines or traveled roads open to the public, or over surfaced roads if such are available to both schoolhouses, or (2) when a bus route, providing service to a school, is less than one-fourth the distance from their the students' residence to the schoolhouse in their own district, such children students may, at the discretion of the board school board or board of education of the other district, have school privileges in the other district instead of in the district of their residence, under the following conditions:

The parent or guardian of such children students shall, not later than June 1, notify the county superintendent of each district affected, using such a form of notice as prescribed by the State Department of Education, shall prescribe, which notice shall state the distance referred to in subdivisions subdivision (1) or (2) of this section, as the case may require. The notice shall be sworn and subscribed before a notary public and approved by the signatures of a majority of the members of the school board or board of education of the district in which such children desire students desire school privileges. If PROVIDED, if the other district is contracting for the instruction of its pupils, the school board or board of education of such district may, at its option, grant school privileges to such children students when all of the foregoing conditions stated in this section have been met.

Sec. 29. Section 79-479, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-479.~~ The county superintendent shall investigate the facts set forth in the notice described in section 28 of this act. If the county superintendent finds the notice petition and if found to be correct, he or she shall notify the secretary of each district to transfer such person together with such children or wards, students or wards to such adjoining district for school purposes for the year next ensuing. It shall be the duty of the The county superintendent to shall see that the children or wards are students or wards are enumerated in the adjoining district and not in the district of their residence.

Sec. 30. Section 79-480, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-480.~~ The county superintendent shall notify the county clerk of the transfer authorized under section 29 of this act. The county clerk shall, within fifteen days from after the receipt of the notice of transfer, unless it the notice is recalled at the request of the parent or guardian of such children students in the meantime, place the school taxes, except for the payment of special levies for building purposes or existing bonds or interest

on the same, of the parents or guardians and of the real property on which they reside, not exceeding a quarter section of land for the year next ensuing, in the adjoining district instead of in the district of their residence. Such school taxation shall be based upon the levy for school purposes in the adjoining district and the taxable valuation of the property of such parents or guardians and the real property as determined by the proper officers. The taxes shall be collected as provided by law for the other taxes.

Sec. 31. Section 79-481, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-481-~~ When the transfer pursuant to section 29 of this act of children students from a school district located in one county to a school district located in another county is involved, the county superintendent of each such county shall notify the county clerk, of the county in which the county superintendent has jurisdiction, of each transfer granted, using such forms of notice as the State Department of Education shall prescribe prescribes. The county clerk of the county to which the transfer for school purposes is made shall certify to the county clerk of the county in which the applicant for such transfer resides the rate of school taxes then voted in the district to which the transfer is made. ~~It shall then be the duty of the~~ The county clerk of the county in which the applicant resides to shall levy, within fifteen days after the receipt of the certificate of transfer, unless it be recalled at the request of the parent or guardian of such children students in the meantime, under the authority of the county board of said such county, upon all taxable property belonging to such applicant, real or personal, situated on such transferred lands, thus transferred, an amount equal to and not exceeding the rate of school taxes being voted in the district to which the transfer is made. All such tax money derived from such levy shall be collected by the county treasurer of the county in which the property to be taxed is located and shall be paid by him or her to the county treasurer of the county to which transfer has been made. A proper receipt for such taxes shall be executed and drawn to the favor of the county treasurer from whom such taxes are received. The receipt shall set forth the purposes of such taxes and shall designate the school district entitled to receive all such taxes. The county treasurer of the county to which transfer was made shall place such taxes to the credit of the district.

Sec. 32. Section 79-482, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-482-~~ When such transfer shall have a transfer under sections 28 to 35 of this act has been made, the children students shall enjoy school privileges in the adjoining district for only one year, unless the parent or guardian of such children shall give students gives notice in writing to the county superintendent not less than fifteen days before each annual meeting or election, asking that the transfer be continued for one year, using such form of notice as the State Department of Education shall prescribe prescribes. The notice shall state that such parent or guardian has children a student or students of school age who have not yet completed the eighth grade. A continuation of the transfer shall be granted only with the approval of the school board of the district to which such children student or students are transferred. When the transfer shall cease ceases to exist, the county superintendent shall notify the county clerk who shall thereupon retransfer, and the taxes of the parent or guardian and the real estate shall again be placed in the district of their residence.

Sec. 33. Section 79-483, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-483-~~ The parents or guardians of the pupils so students transferred under sections 28 to 35 of this act shall have the right to vote in the district to which such pupils are students are transferred on all school matters except those of issuing bonds, levying a tax for building purposes, contracting for instruction, and closing the district. No parent or guardian of the pupils students so transferred shall be eligible to hold office on the school board of the district to which the transfer was made.

Sec. 34. Section 79-484, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-484-~~ The provisions of sections ~~79-478 to 79-483~~ 28 to 35 of this act shall never be construed, except with the written permission of the owner or owners in fee simple of the real estate involved in the transfer, to permit or allow the transfer of a child or children students from or to a city or village school district, however classified, located wholly or partly within the boundaries of any city or village.

Sec. 35. Section 79-485, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-485-~~ The provisions of sections 79-478 to 79-483 ~~shall~~ 28 to 34 of this act do not apply to a district in which adequate transportation facilities are furnished by such district.

## ARTICLE 2

## PART (e) - ENROLLMENT OPTION PROGRAM

Sec. 36. Section 79-3401, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3401-~~ (1) The Legislature hereby finds and declares that parents and legal guardians have the primary responsibility of ensuring that their children receive the best education possible. In recognition of this responsibility, the Legislature intends to provide educational options for parents and legal guardians, when deciding what public school or public school district is best for their children, by allowing them to consider the following factors, including, but not limited to:

- (a) The size of the schools and school districts in the area;
- (b) The distance children have to travel and the ease and availability of transportation;
- (c) The course offerings and extracurricular offerings of the schools and school districts in the area;
- (d) The quantity and quality of the staff at such schools and school districts; and
- (e) The performance of the school district on any indicators of performance established by the State Department of Education.

(2) The Legislature also finds and declares that desegregation and racial integration in the public schools are of critical importance for the future of this state and that those school districts with desegregation plans may, as authorized in section 79-3407 42 of this act, adopt standards which deny the educational options for parents and that such school districts are not required to consider, in denying such options, any of the factors in subsection (1) of this section or any other factors considered by parents or legal guardians in seeking enrollment for a child in a school district in which they do not reside.

Sec. 37. Section 79-3402, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3402-~~ For purposes of sections 79-3401 to 79-3417 36 to 51 of this act:

(1) Enrollment option program ~~shall mean means~~ the program established in section 79-3403 38 of this act;

(2) Option school district ~~shall mean means~~ the public school district that a student chooses to attend other than his or her resident school district;

(3) Option student ~~shall mean means~~ a student that has chosen to attend a public school district other than his or her resident school district;

(4) Resident school district ~~shall mean means~~ the public school district in which a student resides; and

(5) Siblings ~~shall mean means~~ all children residing in the same household on a permanent basis who have the same mother or father or who are stepbrother or stepsister to each other.

Sec. 38. Section 79-3403, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3403-~~ (1) An enrollment option program is hereby established to enable any kindergarten through twelfth grade Nebraska student to attend a school in a Nebraska public school district in which the student does not reside subject to the limitations prescribed in section 79-3407 42 of this act. The option shall be available only once to each student prior to graduation unless (a) the student relocates in a different resident school district, (b) the option school district merges with another district, or (c) the option school district is a Class I district. The option student shall be given the option to attend school in another district at the time of relocation or merger or upon completion of the grades offered at the Class I district.

(2) The program shall not apply to (a) any student who resides in a Class I district which has not affiliated and which contracts or has contracted in either or both of the two prior school years with another district or districts in such student's grade level pursuant to section 79-406 351 of this act or (b) any student who resides in a district which has entered into an annexation agreement pursuant to section 79-801 222 of this act, except that such student may transfer to another district which accepts option students.

Sec. 39. Section 79-3404, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3404.~~ For purposes of all duties, entitlements, and rights established by law, including special education as provided in section 79-3320 809 of this act, except as provided in section 79-3410 45 of this act, option students shall be treated as resident students of the option school district.

Sec. 40. Section 79-3405, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3405.~~ Beginning with the 1993-94 school year, the enrollment option program shall be implemented by all public school districts.

Sec. 41. Section 79-3406, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3406.~~ (1)(a) Except as provided in subdivision (b) of this subsection, for a student to attend school in an option school district, the student's parent or legal guardian shall submit an application to the school board or board of education of the option school district between September 1 and January 1 for enrollment during the following and subsequent school years. Applications submitted after January 1 shall be accompanied by a written release from the resident school district. The option school district shall provide the resident school district with the name of the applicant on or before January 15. The option school district shall notify, in writing, the parent or legal guardian of the student, the resident school district, and the State Department of Education whether the application is accepted or rejected on or before April 1.

(b) For a student to attend school in an option school district whose resident school district has a desegregation plan adopted by the school board or the board of education or ordered by the federal court, the student's parent or legal guardian shall submit an application to the school board or board of education of the resident school district between September 1 and January 1 for enrollment during the following and subsequent school years. If the application is accepted, the resident school district shall notify, in writing, the option school district and the parent or legal guardian of the student on or before February 1. If the application is rejected, the resident school district shall notify, in writing, the parent or legal guardian of the student on or before February 1. If the application is accepted by the resident school district, the option school district shall notify, in writing, the parent or legal guardian of the student, the resident school district, and the State Department of Education whether the application is accepted or rejected by the option school district on or before April 1.

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

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

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

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

(6) The application and cancellation forms shall be prescribed and furnished by the State Department of Education.

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

Sec. 42. Section 79-3407, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3407.~~ (1) Except as provided in section 79-3409 44 of this act, the school board or board of education of the option school district shall

adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building or the availability of appropriate special education programs operated by the option district. Capacity shall be determined by setting a maximum number of option students that a district will accept in any program, class, grade level, or school building, based upon available staff, facilities, projected enrollment of resident students, projected number of students with which the option district will contract based on existing contractual arrangements, and availability of appropriate special education programs. The school board or board of education of the option school district may by resolution declare a program, a class, or a school unavailable to option students due to lack of capacity. Standards shall not include previous academic achievement, athletic or other extracurricular ability, handicapping conditions, proficiency in the English language, or previous disciplinary proceedings.

(2) A school district that has a desegregation plan adopted by the school board or the board of education or ordered by the federal court may adopt standards for acceptance and rejection of applications for transfer into or out of such district which are designed to make desegregation easier to maintain or improve. Desegregation is made easier to maintain or improve by standards which, considering all requests for transfer into or out of the school district received prior to the school district's application deadline established in conformity with section 79-3406 or 79-3409 ~~41~~ or ~~44~~ of this act, prohibit transfers which if granted would increase the racial percentage in the school district's total enrollment of the minority group for whom the desegregation plan was ordered or adopted. Any such standards may apply to students residing within the school district who seek to transfer to a school in another school district and to students who reside in another district who seek to transfer into a school district which has a desegregation plan.

(3) Any option school district shall give first priority for enrollment to option students whose request for enrollment would aid the racial integration of the option school district and the resident school district and to siblings of option students, except that the option school district shall not be required to accept the sibling of an option student if the district is at capacity except as provided in subsections (2) and (4) of section 79-3409 ~~44~~ of this act.

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

Sec. 43. Section 79-3408, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3408-~~ If an application is rejected by the option school district or by the resident school district, the rejecting school district shall state in the notification the reason for the rejection. The parent or legal guardian may appeal a rejection to the State Board of Education within thirty days ~~of~~ after the date the notification of the rejection was received by the parent or legal guardian. Such hearing shall be held in accordance with the Administrative Procedure Act and shall determine whether the procedures of sections 79-3403 ~~to~~ 79-3410 ~~38~~ to ~~45~~ of this act have been followed.

Sec. 44. Section 79-3409, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3409-~~ (1) Upon agreement of the school boards or boards of education of the resident school district and the option school district, the deadlines for application and approval or rejection prescribed in section 79-3406 ~~41~~ of this act may be waived.

(2) The application of a student who relocates in a different school district but wants to continue attending his or her original resident school district and who has been enrolled in his or her original resident school district for the immediately preceding two years and the application of any sibling of any such student to attend kindergarten or first grade in such original resident school district shall be automatically accepted, and the deadlines prescribed in section 79-3406 ~~41~~ of this act shall be waived.

(3) The application of an option student who relocates in a different school district but wants to continue attending the option school district shall be automatically accepted, and the deadlines prescribed in section 79-3406 ~~41~~ of this act shall be waived.

(4) The sibling of any option student shall be automatically accepted as an option student in the district in which the option student is enrolled and all deadlines imposed by section 79-3406 ~~41~~ of this act shall be waived if the sibling makes application for participation in the enrollment

option program for the same school year as the option student first makes application or, if the sibling is not yet of school age for the school year for which the option student first made application, the sibling makes application for the first school year in which the sibling is of school age. Capacity limitations of the option district shall be waived as to siblings who meet the requirements for automatic acceptance as option students under this section.

Sec. 45. Section 79-3410, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3410-~~ (1) Except as provided in subsection (2) of this section, section 79-490 ~~shall~~ 372 of this act does not apply to the transportation of an option student. The parent or legal guardian of the option student shall be responsible for required transportation. Beginning with the 1993-94 school year, a school district may, upon mutual agreement with the parent or legal guardian of an option student, provide transportation to the option student. The school district may charge the parents of each option student transported a fee sufficient to recover the additional costs of such transportation.

(2) Parents or guardians of option students who qualify for free lunches shall be eligible for transportation reimbursement as described in section 79-490 372 of this act, except that they shall be reimbursed at the rate of one hundred forty-two and one-half percent of the mandatorily established mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student to the schoolhouse exceeds three miles. The State Department of Education shall reimburse the option school district for transportation expenses paid to the parents of qualifying option students or incurred in actual transportation of qualifying option students. If a parent or guardian of a qualifying option student has an agreement with the option school district for the provision of transportation, the department shall reimburse the option school district only if option students who are not eligible for transportation reimbursement are charged fees for transportation, and reimbursement shall be only for the actual miles traveled one way beyond the normal transportation route at the rate described in this subsection. Reimbursement shall be made on or before June 30 for expenses incurred during the current school year. If sufficient funds are not appropriated to fully fund the provisions of this section, the department shall make a proportionate reduction in each payment made pursuant to this section.

(3) For option students verified as handicapped as defined in section 79-3309 802 of this act, the transportation services set forth in section 79-3322 811 of this act shall be provided by the resident school district. The department shall reimburse the resident school district for the cost of transportation in accordance with section 79-3333 826 of this act.

Sec. 46. Section 79-3412, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3412-~~ An option school district shall accept credits toward graduation that were awarded by another school district. The option school district shall award a diploma to an option student if the student meets its graduation requirements.

Sec. 47. Section 79-3413, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3413-~~ A school district shall make information about the school district and its schools, programs, policies, and procedures available to all interested people.

Sec. 48. Section 79-3414, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3414-~~ The enrollment option program ~~shall~~ does not preclude a school district from contracting with other school districts, educational service units, or other state-approved entities for the provision of services. A handicapped student receiving services from another district pursuant to contract due to lack of appropriate programming in his or her resident school district ~~shall not be~~ is not eligible to transfer as an option student into the district currently providing services but ~~shall be~~ is eligible to transfer as an option student into any other district which accepts option students and has an appropriate program.

Sec. 49. Section 79-3415, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3415-~~ (1) For school years 1990-91 and 1991-92, the State Department of Education shall pay the option school district the statewide average per pupil cost for the preceding year, as determined by the department, or the option school district's per pupil cost for the preceding year as reported in the district's approved annual financial report, whichever

is less, in two approximately equal payments on or before January 30 and on or before June 30, for expenses incurred during the current school year for each option student, including option students who are handicapped.

(2) Beginning with the 1992-93 school year, the Tax Equity and Educational Opportunities Support Act shall apply to the enrollment option program as provided in this subsection. For purposes of the act, (a) option students shall not be counted as formula students by the resident school district and shall be counted by the option school district and (b) the option school district shall include the funds received pursuant to this section in the calculation of other actual receipts as required by section 79-3811 664 of this act.

(3) If an option student relocates in a different school district during the school year, the department shall prorate the amount remitted to the option school district pursuant to this section according to the proportionate amount of time such student was enrolled in the option school district.

(4) If sufficient funds are not appropriated to fully fund this section, the department shall make a proportionate reduction in each payment made pursuant to this section.

Sec. 50. Section 79-3416, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3416-~~ The State Department of Education shall reimburse each option school district for special education programs provided to option students in accordance with section 79-3332 824 of this act.

The resident school district of an option student shall be exempted from the payment responsibility set forth in section 79-3330 822 of this act.

For purposes of calculation to determine reimbursement pursuant to section 79-3332 824 of this act, the option school district shall include the adjusted average per pupil cost as defined in section 79-3304 796 of this act of the option school district and not the amount received pursuant to section 79-3415 49 of this act.

Sec. 51. Section 79-3417, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3417-~~ By September 1, 1991, and each year thereafter until 1995, the State Department of Education shall provide a report to the Legislature concerning the operation of the enrollment option program over the previous year. The report shall include, but not be limited to, the following information:

(1) The number of students who applied to attend an option school district and the number of students whose applications were approved by each option school district;

(2) The educational reasons listed for the transfer to option school districts;

(3) The number of students whose applications were rejected by option school districts and the reasons for the rejection;

(4) The number of appeals regarding the rejection of applications before the State Board of Education and the number of appeals which were successful;

(5) Which school districts participated in the enrollment option program and the number of students from each resident school district who transferred to an option school district;

(6) Any problems that the department became aware of regarding the enrollment option program and any suggestions for improvement in the current provisions of the program; and

(7) Any other pertinent data that would help the Legislature refine the enrollment option program.

## ARTICLE 2

### PART (f) - PHYSICAL EXAMINATIONS

Sec. 52. Section 79-4,133, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,133-~~ Every school district shall separately and carefully cause every child under its jurisdiction to be separately and carefully inspected, except as otherwise provided in this section, to ascertain if such child is suffering from (1) defective sight or hearing, (2) dental defects, or (3) other conditions as prescribed by the Department of Health. If such inspection determines that any child has such condition, it shall be the duty of the school to shall notify the parent of the child in writing of such condition and explain to such parent the necessity of professional attendance for such child. Whenever a child shall apparently show apparently shows symptoms of any contagious or infectious disease, such child shall be sent to

his home immediately, or as soon as safe and proper conveyance can be found, and the proper school authority, school board, or board of education shall be at once notified. Such student may be excluded from school as provided in section 68 of this act. No child shall be compelled to submit to a physical examination other than the inspection by the school over the written objection of his or her parent or guardian, delivered to the school authorities. Such objection shall does not exempt the child from the quarantine laws of the state nor and does not prohibit an examination for infectious or contagious diseases.

Sec. 53. Section 79-4,134, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,134.~~ The Department of Health shall prescribe adopt and promulgate rules and regulations for conducting school health inspections, the qualifications of the person or persons authorized to make such inspections, and the health conditions to be observed and remedied, and shall furnish to school authorities regulations and other useful materials for carrying out the purposes of sections ~~79-4,133 to 79-4,138~~ 52 to 57 of this act.

Sec. 54. Section 79-4,135, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,135.~~ During the first quarter of each school year the school district shall provide the inspections required by section ~~79-4,133~~ 52 of this act for the children then in attendance. Thereafter, as children enter school during the year, such inspections must be made immediately upon their entrance.

Sec. 55. Section 79-4,136, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,136.~~ It shall be the duty of the The boards of education and school boards of the several school districts of the state to shall enforce the provisions of sections ~~79-4,133 to 79-4,138~~ 52 to 57 of this act.

Sec. 56. Section 79-4,137, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,137.~~ The board of education or school board of any school district may employ regularly licensed physicians to make physical examinations or inspections in lieu of school health inspections required by section ~~79-4,133~~ 52 of this act.

Sec. 57. Section 79-4,138, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,138.~~ Any person violating any of the provisions of sections ~~79-4,133 to 79-4,137~~ 52 to 56 of this act shall be guilty of a Class V misdemeanor.

## ARTICLE 2

### PART (g) - STUDENT DISCIPLINE

Sec. 58. Section 79-4,169, Revised Statutes Supplement, 1995, is amended to read:

~~79-4,169.~~ Sections ~~79-4,169 to 79-4,205-02~~ 58 to 98 of this act shall be known and may be cited as the Student Discipline Act.

Sec. 59. Section 79-4,170, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,170.~~ The purpose of the Student Discipline Act ~~shall be~~ is to assure the protection of all elementary and secondary school students' constitutional right to due process and fundamental fairness within the context of an orderly and effective educational process. The sanctions defined in the act shall be interpreted at all times in the light of the principles of free speech and assembly protected under the Constitution of the State of Nebraska and of the United States Constitution and in recognition of the right of every student to public education.

Sec. 60. Section 79-4,179, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,179.~~ For purposes of the Student Discipline Act, unless the context otherwise requires:

(1) Long-term suspension shall mean means the exclusion of a student from attendance in all schools within the system for a period exceeding five school days but less than twenty school days;

(2) Expulsion shall mean means exclusion from attendance in all schools within the system in accordance with section ~~79-4,196~~ 87 of this act; and

(3) Mandatory reassignment shall mean means the involuntary transfer of a student to another school in connection with any disciplinary action.

Sec. 61. Section 79-4,171, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,171-~~ The school board or board of education may authorize the emergency exclusion, short-term or long-term suspension, expulsion, or mandatory reassignment of any pupil from school for conduct prohibited by the board's rules or standards established pursuant to the Student Discipline Act if such emergency exclusion, short-term or long-term suspension, expulsion, or mandatory reassignment complies with the procedures required by the act.

Sec. 62. Section 79-4,172, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,172-~~ Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation.

Sec. 63. Section 79-4,173, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,173-~~ If a student is suspended, expelled, or excluded from school or from any educational function pursuant to the Student Discipline Act, such absence from school shall not be deemed a violation on the part of any person under any compulsory school attendance statutes. Any suspension or expulsion under the act shall comply with the requirements of the Special Education Act and the requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq.

Sec. 64. Section 79-4,174, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,174-~~ Any statement, notice, recommendation, determination, or similar action specified in the Student Discipline Act shall be effectively given at the time written evidence thereof is delivered personally to or upon receipt of certified or registered mail or upon actual knowledge by a student or his or her parent or guardian.

Sec. 65. Section 79-4,175, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,175-~~ (1) The school board or board of education may by rule amplify, supplement, or extend the procedures provided in the Student Discipline Act if such actions are not inconsistent with the act.

(2) Any action taken by the school board or board of education or by its employees or agents in a material violation of the act shall be considered null, void, and of no effect.

(3) The school board or board of education may authorize the delegation to other school officials of responsibilities directed to the principal or superintendent by the act.

Sec. 66. Section 79-4,176, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,176-~~ (1) The school board or board of education shall establish and promulgate rules and standards concerning student conduct which are reasonably necessary to carry out or to prevent interference with carrying out any educational function, if such rules and standards are clear and definite so as to provide clear notice to the student and his or her parent or guardian as to the conduct prescribed, prohibited, or required ~~thereunder~~ under the rules and standards. Notwithstanding any other provisions contained in the Student Discipline Act, the school board or board of education may by rule specify a particular action as a sanction for particular conduct. Any such action must be otherwise authorized by section ~~79-4,172, 79-4,178, or 79-4,180 62, 69, or 71 of this act~~. Any such rule shall be binding on all students, school officials, board members, and hearing examiners. Expulsion may be specified as a sanction for particular conduct only if the school board or board of education finds that the type of conduct for which expulsion is specified has the potential to seriously affect the health, safety, or welfare of the student, other students, staff members, or any other person or to otherwise seriously interfere with the educational process.

(2) All rules and standards established by school officials, other than the board, applicable to students shall not conflict with rules and standards adopted by the board. The board may change any rule or standard in accordance with policies which it may from time to time adopt.

(3) Rules or standards which form the basis for discipline shall be distributed to each student and his or her parent or guardian at the beginning of each school year, or at the time of enrollment if during the school year, and shall be posted in conspicuous places in each school during the school

year. Changes in rules and standards shall not take effect until reasonable effort has been made to distribute such changes to each student and his or her parent or guardian.

Sec. 67. Section 79-4,176.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-4,176.01-~~ (1) Each school district shall adopt a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have knowingly and intentionally possessed, used, or transmitted a firearm on school grounds, in a school-owned vehicle being used for a school purpose, or at a school-sponsored activity or athletic event. For purposes of this section, firearm means a firearm as defined in 18 U.S.C. 921. The policy shall authorize the superintendent or the school board or board of education to modify the expulsion requirement on an individual basis.

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

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

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

- (i) The name of the school concerned;
- (ii) The number of students expelled from the school; and
- (iii) The types of weapons concerned.

Sec. 68. Section 79-4,177, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,177-~~ (1) Any student may be excluded from school in the following circumstances, subject to the procedural provisions of section ~~79-4,178~~ 69 of this act, and, if longer than five school days, subject to the provisions of subsection (3) of this section:

(a) If the student has a dangerous communicable disease transmissible through normal school contacts and poses an imminent threat to the health or safety of the school community; or

(b) If the student's conduct presents a clear threat to the physical safety of himself, herself, or others, or is so extremely disruptive as to make temporary removal necessary to preserve the rights of other students to pursue an education.

(2) Any emergency exclusion shall be based upon a clear factual situation warranting it and shall last not longer than is necessary to avoid the dangers described in subsection (1) of this section.

(3) If the superintendent or his or her designee determines that such emergency exclusion shall extend beyond five days, the school board shall adopt a procedure for a hearing to be held and a final determination made within ten school days after the initial date of exclusion. Such procedure shall substantially comply with the provisions of sections ~~79-4,179 to 79-4,200~~ 70 to 91 of this act, and such provisions shall be modified only to the extent necessary to accomplish the hearing and determination within this shorter time period.

Sec. 69. Section 79-4,178, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,178-~~ (1) The principal may deny any student the right to attend school or to take part in any school function for a period of up to five school days on the following grounds:

(a) Conduct constituting grounds for expulsion as set out in the Student Discipline Act; or

(b) Any other violation of rules and standards of behavior adopted under the act.

(2) Such short-term suspension shall be made only after the principal has made an investigation of the alleged conduct or violation and has determined that such suspension is necessary to help any student, to further school purposes, or to prevent an interference with school purposes.

(3) Before such short-term suspension ~~shall take effect~~, the student shall be given oral or written notice of the charges against him or her, an explanation of the evidence the authorities have, and an opportunity to present his or her version.

(4) Within twenty-four hours or such additional time as is reasonably necessary following such suspension, the principal shall send a written statement to the student and his or her parent or guardian describing the student's conduct, misconduct, or violation of the rule or standard and the reasons for the action taken. The principal shall make a reasonable effort to hold a conference with the parent or guardian before or at the time the student returns to school.

(5) Any student who is suspended pursuant to this section may be given an opportunity to complete any classwork, including, but not limited to, examinations, missed during the period of suspension. Each public school district shall develop and adopt guidelines stating the criteria school officials shall use in determining whether and to what extent such opportunity for completion will be granted to suspended students. The guidelines shall be provided to the student and parent or guardian at the time of suspension.

Sec. 70. Section 79-4,179.01, Revised Statutes Supplement, 1995, is amended to read:

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

At the conclusion of the designated period, the school district shall (1) reinstate any student who has satisfactorily participated in the school, class, or program to which such student has been assigned and permit the student to return to the school of former attendance or to attend other programs offered by the district or (2) if the student's conduct has been unsatisfactory, enforce the expulsion action.

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

Sec. 71. Section 79-4,180, Revised Statutes Supplement, 1995, is amended to read:

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

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

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

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

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

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

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

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

(8) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent

jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at an educational function or event. For purposes of this subdivision, sexual assault shall mean sexual assault in the first degree and sexual assault in the second degree as defined in sections 28-319 and 28-320, as such sections now provide or may hereafter from time to time be amended;

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

(10) A repeated violation of any rules and standards validly established pursuant to section 79-4,176 66 of this act if such violations constitute a substantial interference with school purposes.

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

Sec. 72. Section 79-4,181, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,181-~~ If a principal makes a decision to discipline a student by long-term suspension, expulsion, or mandatory reassignment, the following procedures shall be followed:

(1) On the date of the decision, a written charge and a summary of the evidence supporting such charge shall be filed with the superintendent. The school shall, within two school days of after the decision, send written notice by registered or certified mail to the student and his or her parent or guardian informing them of the rights established under the Student Discipline Act;

(2) Such written notice shall include the following:

(a) The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;

(b) The penalty, if any, which the principal has recommended in the charge and any other penalty to which the student may be subject;

(c) A statement that, before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student ~~shall have~~ has a right to a hearing, upon request, on the specified charges;

(d) A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;

(e) A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian ~~shall have~~ has the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substance of their testimony; and

(f) A form on which the student, the student's parent, or the student's guardian may request a hearing to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail as prescribed in sections ~~79-4,184 and 79-4,185~~ 75 and 76 of this act; and

(3) When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the superintendent, the student may be suspended by the principal until the date the long-term suspension, expulsion, or mandatory reassignment takes effect if no hearing is requested or, if a hearing is requested, the date the hearing examiner makes the report of his or her findings and a recommendation of the action to be taken to the superintendent, if the principal determines that the student must be suspended immediately to prevent or substantially reduce the risk of (a) interference with an educational function or school purpose or (b) a personal injury to the student himself or herself, other students, school employees, or school volunteers.

Nothing in the The Student Discipline Act ~~shall~~ does not preclude the student or the student's parent, guardian, or representative from discussing and settling the matter with appropriate school personnel prior to the hearing stage.

Sec. 73. Section 79-4,182, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,182-~~ (1) If a hearing is requested within five school days after receipt of the notice as provided in section ~~79-4,181~~ 72 of this act, the superintendent shall appoint a hearing examiner who shall, within two school days after being appointed, give written notice to the principal, the student, and the student's parent or guardian of the time and place for the

hearing.

(2) The hearing examiner shall be any person designated by the school district's superintendent, school board or board of education, or counsel, if such person (a) has not brought the charges against the student, (b) shall not be a witness at the hearing, and (c) has no involvement in the charge.

(3) The hearing shall be scheduled within a period of five school days after it is requested, but such time may be changed by the hearing examiner for good cause. No hearing shall be held upon less than two school days' actual notice to the principal, the student, and the student's parent or guardian, except with the consent of all the parties.

(4) The principal or legal counsel for the school, the student, and the student's parent or guardian, or representative, shall have the right to examine the records and written statements referred to in the Student Discipline Act as well as the statement of any witness in the possession of the school board or board of education at a reasonable time prior to the hearing.

Sec. 74. Section 79-4,183, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,183.~~ In addition to the other duties provided in the Student Discipline Act, ~~it shall be the duty of the hearing examiner to~~ shall remain impartial throughout all deliberations. The hearing examiner shall be available, prior to any hearing held pursuant to the act, to answer any questions the principal, the student, or the student's parent or guardian may have regarding the nature and conduct of the hearing.

Sec. 75. Section 79-4,184, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,184.~~ If a hearing is not requested under sections ~~79-4,181 and 79-4,182 72 and 73 of this act~~ by the student or the student's parent or guardian within five school days following receipt of the written notice, the punishment recommended in the charge by the principal or his or her designee shall automatically go into effect upon the fifth school day following receipt of the written notice by the student or his or her parent or guardian as required in section ~~79-4,181 72 of this act~~.

Sec. 76. Section 79-4,185, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,185.~~ If a hearing is requested under sections ~~79-4,181 and 79-4,182 72 and 73 of this act~~ more than five school days but not more than thirty calendar days following the actual receipt of written notice, the hearing shall be held but the imposed punishment shall continue in effect pending final determination.

Sec. 77. Section 79-4,186, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,186.~~ Any hearing conducted pursuant to the Student Discipline Act shall be attended by the hearing examiner, the student, the student's parent or guardian, the student's representative, if any, and counsel for the ~~school's~~ school board or board of education, if the hearing examiner or the superintendent deems it advisable. Witnesses shall be present only when they are giving information at the hearing. The student may be excluded in the discretion of the hearing examiner at times when the student's psychological evaluation or emotional problems are being discussed. The student's representative may be an attorney. The hearing examiner may exclude anyone from the hearing when his or her actions substantially disrupt an orderly hearing.

Sec. 78. Section 79-4,187, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,187.~~ The school board or board of education, acting through the superintendent, may cause legal counsel to be present either for the purpose of acting as the designee of the principal or for the purpose of advising the hearing examiner in the conduct of the hearing requested under sections ~~79-4,181 and 79-4,182 72 and 73 of this act~~. Any legal counsel who acts as the designee of the principal in presenting the school's case against the student shall not advise the hearing examiner on the conduct of the hearing or later advise administrators or ~~school~~ board members on the conduct of any appeal, but legal counsel may give advice on technical and procedural aspects of the school's presentation and may advise the hearing examiner and the ~~school~~ board as long as the legal counsel does not act as the principal's designee in presenting the school's case.

Sec. 79. Section 79-4,188, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,188.~~ At a hearing requested under sections ~~79-4,181 and 79-4,182 72 and 73 of this act~~, the student may speak in his or her own

defense and may be questioned on his or her testimony, but he or she may choose not to testify and, in such case, shall not be threatened with punishment nor be later punished for refusal to testify.

Sec. 80. Section 79-4,189, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,189. At a hearing requested under sections 79-4,181 and 79-4,182 72 and 73 of this act, the principal shall present to the hearing examiner statements, in affidavit form, of any person having information about the student's conduct and the student's records but not unless such statements and records have been made available to the student or the student's parent, guardian, or representative prior to the hearing. The information contained in such records shall be explained and interpreted, prior to or at the hearing, to the student, parent, or guardian, or representative, upon request, by appropriate school personnel.

Sec. 81. Section 79-4,190, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,190. In conducting the hearing requested under sections 79-4,181 and 79-4,182 72 and 73 of this act, the hearing examiner shall not be bound by the rules of evidence or any other courtroom procedure.

Sec. 82. Section 79-4,191, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,191. (1) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner may ask witnesses to testify at the hearing requested under sections 79-4,181 and 79-4,182 72 and 73 of this act. Such testimony shall be under oath, and the hearing examiner shall be authorized to administer the oath. The hearing examiner shall make reasonable effort to assist the student or the student's parent, guardian, or representative in obtaining the attendance of witnesses.

(2) The student, the student's parent, guardian, or representative, the principal, or the hearing examiner shall have the right to question any witness giving information at the hearing.

Sec. 83. Section 79-4,192, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,192. Any person giving evidence by written statement or in person at a hearing requested under sections 79-4,181 and 79-4,182 72 and 73 of this act shall be given the same immunity from liability as a person testifying in a court case.

Sec. 84. Section 79-4,193, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,193. The proceedings of the hearing requested under sections 79-4,181 and 79-4,182 72 and 73 of this act shall be recorded at the expense of the school district.

Sec. 85. Section 79-4,194, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,194. (1) When more than one student is charged with violating the same rule and having acted in concert, and when the facts are substantially the same for all such students, a single hearing requested under sections 79-4,181 and 79-4,182 72 and 73 of this act may be conducted for such students as a group if the hearing examiner believes that a single hearing is not likely to result in confusion and that no student shall have his or her interests substantially prejudiced by a single hearing.

(2) If during the conduct of the hearing the hearing examiner finds that a student's interests will be substantially prejudiced by a group hearing or that the hearing is resulting in confusion, the hearing examiner may order a separate hearing for any student.

Sec. 86. Section 79-4,195, Revised Statutes Supplement, 1995, is amended to read:

79-4,195. (1) After a hearing requested under sections 79-4,181 and 79-4,182 72 and 73 of this act, a report shall be made by the hearing examiner of his or her findings and a recommendation of the action to be taken, which report shall explain, in terms of the needs of both the student and the school board, the reasons for the particular action recommended. Such recommendation may range from no action, through the entire field of counseling, to long-term suspension, expulsion, mandatory reassignment, or an alternative educational placement under section 79-4,179.01 70 of this act.

(2) A review shall be made of the hearing examiner's report by the superintendent, who may change, revoke, or impose the sanction recommended by the hearing examiner but shall not impose a sanction more severe than that recommended by the hearing examiner.

(3) The findings and recommendations of the hearing examiner, the determination by the superintendent, and any determination on appeal to the governing body, shall be made solely on the basis of the evidence presented at

the hearing or, in addition, on any evidence presented on appeal.

Sec. 87. Section 79-4,196, Revised Statutes Supplement, 1995, is amended to read:

~~79-4,196-~~ (1) Written notice of the findings and recommendations of the hearing examiner and the determination of the superintendent under section 79-4,195 86 of this act shall be made by certified or registered mail or by personal delivery to the student or the student's parent or guardian. Upon receipt of such written notice by the student, parent, or guardian, the determination of the superintendent shall take immediate effect.

(2) Except as provided in subsection (3) of this section, the expulsion of a student shall be for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred (a) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (b) within ten school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year subject to the provisions of subsection (5) of this section. Such action may be modified or terminated by the school district at any time during the expulsion period.

(3) The expulsion of a student for (a) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer, or student except as provided in subdivision (3) of section 79-4,180 71 of this act or (b) the knowing and intentional possession, use, or transmission of a dangerous weapon, other than a firearm, shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for the first semester of the following school year. Such action may be modified or terminated by the school district at any time during the expulsion period.

(4) The expulsion of a student for the knowing and intentional possession, use, or transmission of a firearm, which for purposes of this section means a firearm as defined in 18 U.S.C. 921 as of January 1, 1995, shall be for a period as provided by the school district policy adopted pursuant to section 79-4,176-01 67 of this act. This subsection shall not apply to (a) the issuance of firearms to or possession of firearms by members of the Reserve Officers Training Corps when training or (b) firearms which may lawfully be possessed by the person receiving instruction under the immediate supervision of an adult instructor who may lawfully possess firearms.

(5) Any expulsion that will remain in effect during the first semester of the following school year shall be automatically scheduled for review before the beginning of the school year. The review shall be conducted by the hearing examiner after the hearing examiner has given notice of the review to the student and the student's parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing examiner that the student be readmitted for the upcoming school year. If the school board or board of education or a committee of such board took the final action to expel the student, the student may be readmitted only by action of the board. Otherwise the student may be readmitted by action of the superintendent.

Sec. 88. Section 79-4,197, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,197-~~ The record in a case under the Student Discipline Act shall consist of the charge, the notice, the evidence presented, the hearing examiner's findings and recommendations, and the action of the superintendent. With respect to any appeal to a court or any subsequent appeal, the record shall consist, in addition, of any additional evidence taken and any additional action taken in the case.

Sec. 89. Section 79-4,198, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,198-~~ (1) The student or the student's parent or guardian may, within seven school days following receipt of the written notice of the determination of the superintendent under section 79-4,195 86 of this act, appeal the superintendent's determination to the school board or board of education by a written request which shall be filed with the secretary of the board or with the superintendent.

(2) A hearing shall be held before the school board or the board of education within a period of ten school days after it is requested, and such time for a hearing may be changed by mutual agreement of the student and superintendent, except that the hearing may be held before a committee of the school board or board of education of not less than three members. Such

appeal shall be made on the record, except that new evidence may be admitted to avoid a substantial threat of unfairness and such new evidence shall be recorded as provided in section ~~79-4,193~~ 84 of this act.

Sec. 90. Section 79-4,199, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,199~~ (1) After examining the record and taking new evidence pursuant to section ~~79-4,198~~ 89 of this act, if any, the school board or board of education or the designated committee thereof may withdraw to deliberate privately upon such record and new evidence. Any such deliberation shall be held in the presence only of board members in attendance at the appeal proceeding but may be held in the presence of legal counsel who has not previously acted as the designee of the principal in presenting the school's case before the hearing examiner.

(2) If any questions arise during such deliberations which require additional evidence, the deliberating body may reopen the hearing to receive such evidence, subject to the right of all parties to be present.

(3) The board may alter the superintendent's disposition of the case if it finds the decision to be too severe but may not impose a more severe sanction.

Sec. 91. Section 79-4,200, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,200~~ The final action of the board under section ~~79-4,199~~ 90 of this act shall be evidenced by personally delivering or mailing by certified mail a copy of the board's decision to the student and his or her parent or guardian.

Sec. 92. Section 79-4,201, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,201~~ Any person aggrieved by a final decision in a contested case under the Student Discipline Act, whether such decision is affirmative or negative in form, shall be entitled to judicial review under sections ~~79-4,201 to 79-4,205~~ 92 to 96 of this act. Nothing in the act shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

Sec. 93. Section 79-4,202, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,202~~ (1) Proceedings for review under sections ~~79-4,201 to 79-4,205~~ 92 to 96 of this act shall be instituted by filing a petition in the district court of the county where the action is taken within thirty days after the service of the final decision by the school board or board of education under sections ~~79-4,199 and 79-4,200~~ 90 and 91 of this act.

(2) All parties of record shall be made parties to the proceedings for review. The court, in its discretion, may permit other interested persons to intervene.

(3) Summons shall be served as in other actions, except that a copy of the petition shall be served upon the board together with the summons. Service of summons upon a duly elected officer of the board or the appointed secretary of the board shall constitute service on the board.

(4) The filing of the petition or the service of summons upon the board shall not stay enforcement of a decision, but the board may stay enforcement, or the court may order a stay after notice to such board of application therefor and upon such terms as it deems proper.

(5) The court may require the party requesting such stay to give bond in such amount and condition as the court may direct but only in cases involving injury or damage to person or property.

Sec. 94. Section 79-4,203, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,203~~ Within fifteen days after service of the petition under section ~~79-4,202~~ 93 of this act or within such further time as the court for good cause shown may allow, the school board or board of education shall prepare and transmit to the court a certified transcript of the record which shall include the rules and regulations of the school board relied upon by the school district in its determination to suspend, reassign, or expel the student and the proceedings conducted before it, including the final decision sought to be reversed, vacated, or modified. The school board need not file any responsive pleading.

Sec. 95. Section 79-4,204, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,204~~ (1) The review under sections ~~79-4,201 to 79-4,205~~ 92 to 96 of this act shall be conducted by the court without a jury on the record.

(2) The court may affirm the decision of the school board or board of education, remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the board's decision is:

(a) In violation of constitutional provisions;  
 (b) In excess of the statutory authority or jurisdiction of the board;

(c) Made upon unlawful procedure;  
 (d) Affected by other error of law;  
 (e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or  
 (f) Arbitrary or capricious.

Sec. 96. Section 79-4,205, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,205.~~ An aggrieved party may secure a review of any final judgment of the district court under sections ~~79-4,201 to 79-4,204~~ 92 to 95 of this act by appeal as provided in the Administrative Procedure Act.

Sec. 97. Section 79-4,205.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,205.01.~~ (1) The principal of a school or the principal's designee shall notify as soon as possible the appropriate law enforcement authorities of the county or city in which the school is located, of any act of the student described in section ~~79-4,188~~ 71 of this act which the principal or designee knows or suspects is a violation of the Nebraska Criminal Code.

(2) The principal, the principal's designee, or any other school employee reporting an alleged violation of the Nebraska Criminal Code shall not be civilly or criminally liable as a result of any report authorized by this section unless (a) such report was false and the person making such report knew or should have known it was false or (b) the report was made with negligent disregard for the truth or falsity of the report.

Sec. 98. Section 79-4,205.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,205.02.~~ When a principal or other school official releases a minor student to a peace officer as defined in section 49-801 for the purpose of removing the minor from the school premises, the principal or other school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, in which case the principal or other school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the peace officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held or that the disclosure would cause the custody of the minor to be disturbed, the peace officer may refuse to disclose the place where the minor is being held for a period not to exceed twenty-four hours. The peace officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at any subsequent detention hearing.

Sec. 99. Section 79-4,140, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140.~~ Corporal punishment shall be prohibited in public schools.

Sec. 100. Section 79-4,228, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,228.~~ (1) In addition to the penalties provided in section ~~79-4,180~~ and the Uniform Controlled Substances Act and section 71 of this act, any person under nineteen years of age who is a student at any public elementary, secondary, or postsecondary educational institution in this state who possesses, dispenses, delivers, or administers anabolic steroids as defined in section 28-401 in violation of the ~~act~~ Uniform Controlled Substances Act may be prohibited from participating in any extracurricular activities for not more than thirty consecutive days for the first offense. For the second or any subsequent offense, the student may be barred from participation in such activities for any period of time the institution deems appropriate pursuant to the written policy of the institution.

(2) Any sanction imposed pursuant to this section shall be in accordance with a written policy of the institution. The institution shall post the written policy in a conspicuous place and shall make a copy of the policy available to any student upon request.

## PART (h) - STUDENT ORGANIZATIONS

Sec. 101. Section 79-342, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-342-~~ The State Board of Education and the State Department of Education may sponsor and direct the activities of FFA, Future Homemakers of America, Future Business Leaders of America, Vocational Industrial Clubs of America, DECA - An Association of Marketing Students, Health Occupation Student Association, Young Farmers and Ranchers Educational Association, Technology Students Association, and Phi Beta Lambda. The duties of the department may include, but need not be limited to, the following:

(1) ~~Establish~~ Establishing policies and procedures for the operation of the organizations listed in this section;

(2) ~~Supervise~~ Supervising students involved in such organizations;

(3) ~~Hold~~ Holding periodic conferences, meetings, and functions to train, recognize, and reward student participants;

(4) ~~Provide~~ Providing scholarships and suitable awards to outstanding student participants;

(5) ~~Coordinate~~ Coordinating activities of state-level groups with activities of any related local or national organization;

(6) ~~Organize and supervise~~ Organizing and supervising travel to and from meetings, both inside and outside of the state;

(7) ~~Prepare and issue~~ Preparing and issuing publications concerning such organizations;

(8) ~~Train~~ Training state and local organization leaders and officers;

(9) ~~Collect~~ Collecting dues from local organizations and members and ~~pay~~ paying dues to national organizations related to state-level student groups;

(10) ~~Procure~~ Procuring insurance, at the option of the board and the department, for student members or officers of such organizations; and

(11) ~~Manage~~ Managing the finances of such organizations through the State Department of Education Cash Fund as provided in section 79-343 102 of this act.

Sec. 102. Section 79-343, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-343-~~ Money received by organizations referred to in section ~~79-342~~ 101 of this act shall be remitted to the State Treasurer for credit to the State Department of Education Cash Fund. Each organization shall have a separate account within such fund, and money received by such organization shall be credited to such separate account. Money in the account may be used for student organization expenditures which include, but are not limited to, trophies, gifts to honorees, scholarships, prizes, national dues, entertainment at state conferences, food, and beverages.

Sec. 103. Section 79-344, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-344-~~ When sponsored by the State Department of Education, student organizations referred to in section 79-342 101 of this act shall be considered an integral part of the department, and state-level chapters of such organizations shall not have separate corporate status. The department may enter into agreements with the corporate entities of national organizations for the use of names, logos, and other benefits of such organizations. Such organizations may, at the discretion of the State Board of Education, include postsecondary, adult, or alumni members in their activities.

Sec. 104. Section 79-345, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-345-~~ The State Board of Education shall adopt and promulgate rules and regulations to carry out sections 79-342 to 79-344 101 to 103 of this act.

Sec. 105. Section 79-4,125, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,125-~~ It shall be unlawful for the pupils of any public school of this state to participate in or be members of any secret fraternity or secret organization ~~whatsoever~~ that is in any degree a school organization.

Sec. 106. Section 79-4,126, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,126-~~ Any person, whether a pupil of any public school or not, who enters upon the school grounds or any school building for the purpose of rushing or soliciting, while there, any pupil of a public school to join any fraternity, society, or association organized outside of the schools, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less

than two dollars nor more than ten dollars.

Sec. 107. Section 79-4,127, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,127.~~ All school boards and boards Any school board or board of education may deny to any student regularly enrolled in any public school, who shall violate section 79-4,125, any or all of the school privileges of such school, to any regularly enrolled student who violates section 105 of this act or may expel any such student for failure or refusal to comply therewith with such section.

## ARTICLE 2

### PART (i) - STUDENT FILES

Sec. 108. Section 79-4,157, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,157.~~ (1) Any student in any public school, or his or her parents, guardians, teachers, counselors, or school administrators shall have access to the school's files or records maintained concerning such student, including the right to inspect, review, and obtain copies of such files or records. No other person shall have access thereto nor shall to such files or records, and the contents thereof of such files or records shall not be divulged in any manner to any unauthorized person. All such files or records shall be so maintained so as to separate academic and disciplinary matters, and all disciplinary material shall be removed and destroyed after a student's continuous absence from the school for a period of three years.

(2) Each public school may establish a schedule of fees representing a reasonable cost of reproduction for copies of a student's files or records for the parents or guardians of such student, except that the imposition of a fee shall not prevent parents of students from exercising their right to inspect and review the students' files or records and no fee shall be charged to search for or retrieve any student's files or records.

(3) ~~Nothing in this section shall~~ This section does not preclude authorized representatives of (a) auditing officials of the United States, (b) auditing officials of this state, or (c) state educational authorities from having access to student or other records which are necessary in connection with the audit and evaluation of federally supported or state-supported education programs or in connection with the enforcement of legal requirements which relate to such programs, except that, when collection of personally identifiable data is specifically authorized by law, any data collected by such officials with respect to individual students shall be protected in a manner which shall not permit the personal identification of students and their parents by other than the officials listed in this subsection. Personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, or enforcement of legal requirements.

Sec. 109. Section 79-4,157.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,157.01.~~ A copy of a public or private school's files or records concerning a student shall be provided at no charge, upon request, to any public or private school to which the student transfers.

## ARTICLE 2

### PART (j) - STUDENT PERSONNEL SERVICES

Sec. 110. Section 79-321.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-321.01.~~ The State Department of Education may accept, in trust, any gifts, devises, and bequests to be held and administered by the department for the purpose of making loans to worthy and needy students attending any college, university, or community college in this state. Such loans shall only be made to students whose parents are residents of Nebraska. Such loans shall be made on such terms and conditions as the State Board of Education shall prescribe or as may be imposed by the donor.

Sec. 111. Section 79-321.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-321.03.~~ The State Board of Education is directed to shall provide supervision and leadership to assure that appropriate student personnel services are provided by the schools and other agencies of this state. Student personnel services shall include school guidance, counseling, testing services, and all other necessary and appropriate noninstructional services for students. The State Department of Education shall provide general supervision and coordination of student personnel services as such services relate to instructional and educational services provided by schools

and other agencies.

ARTICLE 2  
PART (k) - NEBRASKA STUDENT EXCHANGE ACT

Sec. 112. Section 79-3601, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3601.~~ Sections 79-3601 to 79-3606 112 to 117 of this act shall be known and may be cited as the Nebraska Student Exchange Act.

Sec. 113. Section 79-3602, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3602.~~ The Legislature finds that there is a need to promote better communication and understanding among different regions and communities within Nebraska. There is a level of concern about divisions, actual or perceived, between eastern and western Nebraska as well as rural and urban communities. The Legislature further finds that an exchange program involving Nebraska high school students would address the objective of better communication and understanding among Nebraska citizens. The Legislature encourages multiple exchanges in which several exchange students attend a sponsoring school simultaneously and reciprocal exchanges in which students from sponsoring schools attend sponsoring schools on a reciprocal basis.

Sec. 114. Section 79-3603, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3603.~~ There is hereby created the The Nebraska Student Exchange Program ~~to be created.~~ The program shall be administered by the State Department of Education. The objectives of the program are:

(1) To encourage voluntary participation by schools and students throughout Nebraska;

(2) To promote understanding of different lifestyles, values, and concerns among students across Nebraska; and

(3) To provide an educational and enlightening experience for participating students.

Sec. 115. Section 79-3604, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3604.~~ The State Department of Education shall act as a clearinghouse for information concerning the Nebraska Student Exchange Program, including, but not limited to:

(1) Names, addresses, phone numbers, and schools of students interested in participating in the program;

(2) Names, addresses, and phone numbers of high schools interested in receiving exchange students and any special requirements the school may specify;

(3) Potential volunteers to provide room and board for exchange students; and

(4) Curricular requirements necessary for exchange students to retain good academic standing at their school of origin.

Sec. 116. Section 79-3605, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3605.~~ Any Nebraska student in grade ten, eleven, or twelve may, with the approval of a parent or guardian and the principal of the school which he or she regularly attends, apply to participate in the Nebraska Student Exchange Program. Application shall be made to the State Department of Education on a form provided by the department. The application shall include:

(1) The student's name, address, and phone number;

(2) The name, address, and phone number of the school regularly attended by the student and the principal thereof;

(3) The name, address, and phone number of the student's parents or guardian;

(4) The names of at least three communities in which the student may wish to attend school as an exchange student and, if desired, names of particular schools for communities in which there is more than one high school; and

(5) Signatures of the student, the student's parent or guardian, and the principal of the school regularly attended by the student.

Sec. 117. Section 79-3606, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3606.~~ (1) Any Nebraska high school may sponsor one or more exchange students for a period of time as agreed upon by the schools of the participants. Information may be requested from the State Department of Education concerning interested students, potential volunteers to provide room and board, curricular requirements, and other information concerning the

Nebraska Student Exchange Program.

(2) Prior to contacting a prospective exchange student, a sponsoring school shall secure approval and coordinate any necessary curricular requirements with the school regularly attended by the student. Upon approval from the school regularly attended by the student, the sponsoring school may contact the student and arrange an exchange.

(3) No student shall attend a high school as an exchange student within one hundred fifty miles of the school regularly attended by the student unless the school is significantly different than the school regularly attended.

ARTICLE 2  
PART (1) - EQUAL OPPORTUNITY IN EDUCATION

Sec. 118. Section 79-3001, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3001-~~ Sections 79-3001 to 79-3011 118 to 128 of this act shall be known and may be cited as the Nebraska Equal Opportunity in Education Act.

Sec. 119. Section 79-3002, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3002-~~ As used in sections 79-3001 to 79-3011 For purposes of the Nebraska Equal Opportunity in Education Act, unless the context otherwise requires:

(1) Educational institution ~~shall mean~~ means any public preschool, any public elementary, ~~school~~ or secondary school, ~~an~~ any educational service unit, ~~the University of Nebraska,~~ state colleges, community colleges, and the State Department of Education; and

(2) Governing boards ~~shall mean~~ board means the duly constituted board of any public school system of elementary or secondary schools, any educational service unit board, the Board of Regents of the University of Nebraska, ~~the Board of Trustees of the Nebraska State Colleges,~~ the Community College Board of Governors, and the State Board of Education.

Sec. 120. Section 79-3003, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3003-~~ The Legislature finds and declares that it shall be an unfair or discriminatory practice for any educational institution to discriminate on the basis of sex in any program or activity. Such discriminatory practices ~~shall include,~~ but are not be limited to, the following practices:

(1) Exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic, extracurricular, research, occupational training, or other program or activity, except athletic programs;

(2) Denial of comparable opportunity in intramural and interscholastic athletic programs;

(3) Discrimination among persons in employment and the conditions of such employment; and

(4) The application of any rule which discriminates on the basis of (a) the pregnancy of any person, (b) the marital status of any person, or (c) the condition of being a parent. Rules requiring certification of a physician's diagnosis and such physician's recommendation as to what activities a pregnant person may participate in are permissible. For purposes of this section marital status shall include the condition of being single, married, widowed, or divorced.

Sec. 121. Section 79-3004, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3004-~~ The governing boards of educational institutions shall adopt and promulgate rules and regulations needed to carry out ~~sections 79-3001 to 79-3011 the Nebraska Equal Opportunity in Education Act.~~ The State Department of Education shall provide such technical assistance in the development of these rules and regulations as may be requested by the governing board of any public school system of elementary or secondary schools. Governing boards of educational institutions, with the advice of staff, shall formulate activities and programs needed to carry out ~~sections 79-3001 to 79-3011 the act.~~

Sec. 122. Section 79-3005, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3005-~~ (1) Any person aggrieved by a violation of ~~sections 79-3001 to 79-3011 the Nebraska Equal Opportunity in Education Act~~ or any rule, regulation, or procedure adopted pursuant to ~~sections 79-3001 to 79-3011 the act~~ may file a complaint with the governing board of the educational institution committing such violation. Such complaint shall be made in

writing, under oath, within one hundred eighty days ~~of~~ after such alleged violation, and shall set forth the claimant's address and the facts of such alleged violation with sufficient particularity as to permit the governing board to understand and investigate the conduct complained of.

(2) The governing board ~~is empowered to may~~ take such action as may be necessary to correct such violation, including, but not limited to, (a) terminating the discriminatory practice or policy complained of, and (b) awarding to the aggrieved person or persons such compensatory money damages as the particular facts and circumstances may warrant.

(3) The governing ~~body~~ board shall dispose of the complaint and shall notify the claimant of its finding. All dispositions of such complaints shall be in writing, ~~and~~ signed by the chief officer of the governing board, and a true copy of such disposition shall be mailed by certified mail, return receipt requested, to the claimant at the address set forth on the complaint, or at such other address as may be filed by the claimant with the governing board. ~~It shall be the duty of the claimant to~~ The claimant shall notify the governing board of any change of address, and the governing board has no duty to attempt to locate any claimant who has failed to advise such board of a change of address.

Sec. 123. Section 79-3006, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3006.~~ If the claimant under section 122 of this act elects to accept the written disposition of the complaint made by the governing board under such section, he or she shall notify such board in writing of his or her acceptance within sixty days after receipt of such disposition, at which time such disposition shall be deemed final and conclusive. A failure to notify the board of such acceptance within the time period provided in this section shall be deemed a rejection of such disposition.

Sec. 124. Section 79-3007, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3007.~~ If the claimant under section 122 of this act elects not to accept the written disposition of such complaint made by the governing board under such section, he or she may, within one hundred eighty days ~~of~~ after receipt of such disposition, file an original action in the district court of the judicial district where such educational institution is located, for equitable relief and compensatory money damages. If such action includes a claim for money damages, such claimant shall be entitled to a trial by jury as to such claim for damages, unless he or she expressly waives in writing such trial by jury.

Sec. 125. Section 79-3008, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3008.~~ If the governing board fails to dispose of any written complaint filed pursuant to ~~sections 79-3001 to 79-3011~~ the Nebraska Equal Opportunity in Education Act within one hundred eighty days after the date of filing, such complaint may be withdrawn by the claimant, and he or she may then proceed to file an original action in the district court of the judicial district where such educational institution is located pursuant to section ~~79-3007~~ 124 of this act. Such action must be filed within two years ~~of~~ after the date of the filing of such complaint.

Sec. 126. Section 79-3009, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3009.~~ No original action asserting a violation of ~~sections 79-3001 to 79-3011~~ the Nebraska Equal Opportunity in Education Act may be filed in any district court unless a complaint asserting such violation is first filed with the governing board of the educational institution committing such discriminatory act or practice and disposed of or withdrawn as provided in ~~sections 79-3001 to 79-3011~~ the act.

Sec. 127. Section 79-3010, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3010.~~ Nothing in ~~sections 79-3001 to 79-3011~~ shall be construed to The Nebraska Equal Opportunity in Education Act does not prohibit a person asserting a claim for discrimination in employment or the conditions thereof from filing a complaint pursuant to the Nebraska Fair Employment Practice Act. Filing a complaint pursuant to the Nebraska Fair Employment Practice Act ~~shall constitute~~ constitutes a waiver of any right to seek relief pursuant to ~~sections 79-3001 to 79-3011~~ the Nebraska Equal Opportunity in Education Act, and filing a complaint pursuant to ~~sections 79-3001 to 79-3011~~ shall constitute the Nebraska Equal Opportunity in Education Act constitutes a waiver of any right to seek relief pursuant to the Nebraska Fair Employment Practice Act.

Sec. 128. Section 79-3011, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3011-~~ Nothing in sections 79-3001 to 79-3011 shall be construed to The Nebraska Equal Opportunity in Education Act does not prohibit any educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes.

ARTICLE 3 - STATE DEPARTMENT OF EDUCATION  
PART (a) - DEPARTMENTAL STRUCTURE AND DUTIES

Sec. 129. Section 79-321, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-321-~~ (1) The State Department of Education provided for in Article VII, section 2, of the Constitution of ~~this state Nebraska~~ shall consist of a State Board of Education and a Commissioner of Education. The State Department of Education shall have general supervision and administration of the school system of the state, and of such other activities as the Legislature may direct.

(2) All of the powers and duties heretofore conferred upon the State Superintendent of Public Instruction shall be possessed by the State Department of Education, the State Board of Education, or the Commissioner of Education, as provided by law.

(3) The State Board of Education, acting as a unit, shall be the policy-forming, planning, and evaluative body for the state school program. Except in the appointment of a Commissioner of Education, the board shall deliberate and take action with the professional advice and counsel of the Commissioner of Education.

(4) The Commissioner of Education shall be the executive officer of the State Board of Education and the administrative head of the professional, technical, and clerical staff of the State Department of Education. He The commissioner shall act under the authority of the State Board of Education. The commissioner shall have the responsibility for carrying out the requirements of law and of board policies, standards, rules, and regulations, and for providing the educational leadership and services deemed necessary by the board for the proper conduct of the state school program. In the event of vacancy in office or the absence or incapacity of the Commissioner of Education, the deputy commissioner shall carry out all the duties imposed by law upon the commissioner.

Sec. 130. Section 79-307, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-307-~~ The State Department of Education shall prescribe forms for making all reports and regulations for all proceedings under the general school laws of the state. The department may establish procedures for submission of forms on electronic media or via telecommunications systems. The department may require the use of a personally identifiable number, which it will assign, on electronic data submissions in lieu of requiring authorized signatures on paper forms.

Sec. 131. Section 79-340, Revised Statutes Supplement, 1995, is amended to read:

~~79-340-~~ (1) The State Department of Education may provide for a system of charges for services rendered by the administrative support programs of the department to all other programs within the department. Such charges received for administrative support services shall be credited to the State Department of Education Revolving Fund, which fund is hereby created. Expenditures shall be made from such fund to finance the operation of the administrative support programs of the department in accordance with appropriations made by the Legislature.

(2) The Director of Administrative Services, upon receipt of proper vouchers approved by the Commissioner of Education, shall issue warrants out of the State Department of Education Revolving Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

ARTICLE 3  
PART (b) - COMMISSIONER OF EDUCATION

Sec. 132. Section 79-331, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-331-~~ The Commissioner of Education shall (1) be a person of superior educational attainments, (2) have had many years of experience, (3) have demonstrated personal and professional leadership in the administration of public education, and (4) be eligible to qualify for the highest grade of school ~~administrators~~ administrator certificate currently issued in the state.

Sec. 133. Section 79-332, Reissue Revised Statutes of Nebraska, is amended to read:

79-332- The Commissioner of Education as the executive officer of the State Board of Education shall: ~~(1) Have~~ ~~(1)~~ have an office in the city of Lincoln in which shall be housed the records of the State Board of Education and the State Department of Education, which records shall be subject at all times to examination by the Governor, the Auditor of Public Accounts, and committees of the Legislature; (2) keep the board currently informed and advised on the operation and status of all aspects of the educational program of the state under its jurisdiction; (3) prepare a budget for financing the activities of the board and the department, including the internal operation and maintenance of the department, and upon approval by the board administer the same in accordance with appropriations by the Legislature; (4) voucher the expenses of the department according to the rules and regulations prescribed by the board; (5) be responsible for promoting the efficiency, welfare, and improvement in the school system in the state, ~~and to recommend and for recommending~~ to the board such policies, standards, rules, and regulations as may be necessary to attain these purposes; (6) promote educational improvement by (a) outlining and carrying out plans and conducting essential activities for the preparation of curriculum and other materials, (b) providing necessary supervisory and consultative services, (c) holding conferences of professional educators and other civic leaders, (d) conducting research, experimentation, and evaluation of school programs and activities, and (e) in other ways assisting in the development of effective education in the state; (7) decide disputed points of school law, which decisions shall have the force of law until changed by the courts; (8) issue teachers' certificates according to the provisions of law and the rules and regulations prescribed by the board; ~~and~~ (9) attend or, in case of necessity, designate a representative to attend all meetings of the board except when the order of business of the board is the selection of a Commissioner of Education. None of the duties prescribed in this section or in section 79-333 ~~shall~~ ~~134 of this act~~ prevent the commissioner from exercising such other duties as ~~shall~~ be ~~are~~ necessary to the proper and legal exercise of his or her obligations.

Sec. 134. Section 79-333, Reissue Revised Statutes of Nebraska, is amended to read:

79-333- The Commissioner of Education shall be the administrative head of the State Department of Education and as such shall have the authority ~~to~~ (1) ~~to~~ delegate administrative and supervisory functions to the members of the staff of the department, (2) ~~to~~ establish and maintain an appropriate system of personnel administration for the department, (3) ~~to~~ prescribe such administrative rules and regulations as are necessary for the proper execution of duties and responsibilities placed upon him ~~or her~~, and (4) ~~to~~ perform all duties prescribed by the Legislature in accordance with the policies adopted by the ~~board State Board of Education~~.

Sec. 135. Section 79-301, Reissue Revised Statutes of Nebraska, is amended to read:

79-301- The Commissioner of Education shall assign a number to each public school district within this state.

Sec. 136. Section 79-304, Reissue Revised Statutes of Nebraska, is amended to read:

79-304- The Commissioner of Education shall organize institutes and conferences at such times and places as he ~~shall deem~~ ~~or she deems~~ practicable. He ~~or she~~ shall, as far as practicable, attend such institutes and conferences, provide proper instructors for the same, and in other ways seek to improve the efficiency of teachers and advance the cause of education in the state.

Sec. 137. Section 79-305, Reissue Revised Statutes of Nebraska, is amended to read:

79-305- The Commissioner of Education shall visit or cause to be visited such schools as he ~~or she~~ may have it in his ~~or her~~ power to ~~do~~ and witness and advise with teachers and school officers upon the manner in which they are conducted.

### ARTICLE 3

#### PART (c) - STATE BOARD OF EDUCATION

Sec. 138. Section 79-322, Reissue Revised Statutes of Nebraska, is amended to read:

79-322- The State Board of Education shall be composed of eight members who shall be elected as provided in section 32-511.

Sec. 139. Section 79-322.01, Reissue Revised Statutes of Nebraska,

is amended to read:

~~79-322-01-~~ For the purpose of section 79-322 138 of this act, the state is divided into eight districts. The limits and designations of the eight districts shall be as follows:

District No. 1. That part of Lancaster County not included in State Board of Education district 4 and State Board of Education district 5;

District No. 2. That part of Douglas County beginning at the intersection of the Douglas-Sarpy County line and 168th Street, north on 168th Street to West Center Road, east on West Center Road to Hendricks Road, north on Hendricks Road to a point on an east-west line extending from a point halfway between Woolworth Avenue and Pine Street on 158th Street, east along such line to 158th Street, north on 158th Street to Woolworth Avenue, north on Woolworth Avenue to 155th Street, north on 155th Street to Pacific Street, east on Pacific Street to 90th Street, north on 90th Street to Western Avenue, east and south on Western Avenue to 72nd Street, north on 72nd Street to Hamilton Street, east on Hamilton Street to 33rd Street, north on 33rd Street to Charles Street, east on Charles Street to 22nd Street, south on 22nd Street to Charles Street, east on Charles Street to 21st Street, north on 21st Street to Charles Plaza, east on Charles Plaza to 20th Street, north on 20th Street to Charles Street, east on Charles Street to 16th Street, south on 16th Street to Nicholas Street, east on Nicholas Street to 11th Street, north on 11th Street to Seward Street, east on Seward Street to 6th Street, south and east on 6th Street to Abbott Drive, north on Abbott Drive to the Grace Street Outfall, south along the Grace Street Outfall to the Missouri River, north along the Missouri River to the Douglas-Washington County line, west along the Douglas-Washington County line to the Platte River, south along the Platte River to the Douglas-Sarpy County line, and east along the Douglas-Sarpy County line to the point of beginning;

District No. 3. The counties of Cedar, Dixon, Dakota, Wayne, Thurston, Madison, Stanton, Cuming, Burt, Platte, Colfax, Dodge, and Washington;

District No. 4. The counties of Sarpy, Cass, Otoe, Johnson, Nemaha, Pawnee, and Richardson, that part of Douglas County beginning at the intersection of 42nd and Harrison Streets, north on 42nd Street to Q Street, west on Q Street to 42nd Street, north on 42nd Street to F Street, east on F Street to the Burlington Northern Railroad right-of-way, north along the Burlington Northern Railroad right-of-way to Interstate Highway 80, east on Interstate Highway 80 to the Missouri River, south along the Missouri River to Harrison Street, and west on Harrison Street to the point of beginning, and that part of Lancaster County which includes the precincts of Lancaster, Stevens Creek, Grant 1, Grant 2, Grant 3, Stockton, Saltillo 1, Saltillo 2, Nemaha, Buda, South Pass, and Panama;

District No. 5. The counties of Polk, Butler, Saunders, York, Seward, Gosper, Phelps, Kearney, Adams, Clay, Fillmore, Saline, Harlan, Franklin, Webster, Nuckolls, Thayer, Jefferson, and Gage and that part of Lancaster County which includes the precincts of Elk, Middle Creek, Denton, Yankee Hill, Highland, Centerville, and Olive Branch;

District No. 6. The counties of Hamilton, Merrick, Nance, Boone, Antelope, Pierce, Knox, Boyd, Holt, Wheeler, Greeley, Howard, Hall, Buffalo, Sherman, Valley, Garfield, Loup, Rock, Keya Paha, Brown, Blaine, and Custer;

District No. 7. The counties of Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Dawson, Lincoln, Perkins, Keith, Deuel, Cheyenne, Kimball, Banner, Scotts Bluff, Morrill, Garden, Arthur, McPherson, Logan, Thomas, Hooker, Grant, Cherry, Sheridan, Dawes, Box Butte, and Sioux; and

District No. 8. That part of Douglas County not included in State Board of Education district 2 and State Board of Education district 4.

Sec. 140. Section 79-322.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-322-02-~~ The precincts mentioned in section 79-322-01 139 of this act are the precincts set out in the 1990 Census of Population by the United States Department of Commerce, Bureau of the Census.

Sec. 141. Section 79-323, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-323-~~ No person shall be eligible to membership on the State Board of Education (1) who is actively engaged in the teaching profession, (2) who is a holder of any state office, a member of a state board or commission, or a candidate for any state office, board, or commission, or (3) unless he or she is a citizen of the United States, a resident of the state for a period of at least six months, and a resident of the district from which he or she is elected for a period of at least six months immediately preceding his or her election.

Sec. 142. Section 79-324, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-324.~~ Vacancies occurring on the State Board of Education between one general election and another shall be filled by appointment by the Governor from among qualified persons residing in the district in which the vacancy occurs. Such appointments shall be in writing and continue for the unexpired term and until a successor is elected and qualified. The written appointment shall be filed with the Secretary of State.

Sec. 143. Section 79-325, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-325.~~ The State Board of Education shall elect from its own membership a president and a vice president, and otherwise organize itself for the conduct of business. It shall then consider the appointment of and contracting for a Commissioner of Education whose appointment may be for a period of three years. During such term the commissioner may be removed from office for the causes set forth in subdivision (2) of section ~~79-328~~ 146 of this act. The commissioner shall be the secretary of the board. The board shall reorganize itself each two years at its first meeting in the next calendar year following a general election. The board shall constitute a body corporate, to be known as the State Board of Education, and as such it shall adopt and make use of a common seal and may receive, hold, and use money and real and personal property for the benefit of the school system of the state.

Sec. 144. Section 79-326, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-326.~~ Members of the State Board of Education shall be liable to impeachment in the same manner and on the same grounds as other state officers.

Sec. 145. Section 79-327, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-327.~~ (1) The State Board of Education shall meet regularly and periodically in the office of the State Department of Education at the ~~State Capitol~~ at least four times annually. Meetings shall be held during the first full week in June and during the first full week in December of each year. ~~It~~ The board may meet at such other times and places as ~~the board~~ it may determine necessary for the proper and efficient conduct of its duties. Special meetings may be called in accordance with ~~sections 79-327, this section and sections 84-1408 to 84-1414, and 85-104.~~ Five members of the board shall constitute a quorum.

(2) The public shall be admitted to all meetings of the State Board of Education except to such closed sessions as the board may direct in accordance with ~~such sections, 79-327, 84-1408 to 84-1414, and 85-104.~~ The board shall cause to be kept a record of all public meetings and proceedings of the board. The commissioner, or his or her designated representative, shall be present at all meetings except when the order of business for the board is the selection of a Commissioner of Education.

(3) The members of the State Board of Education shall receive no compensation for their services but shall be reimbursed for actual and essential expenses incurred in attending meetings or incurred in the performance of duties as directed by the board as provided in sections 81-1174 to 81-1177, ~~for state employees.~~

Sec. 146. Section 79-328, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-328.~~ The State Board of Education shall ~~have the power and it shall be its duty~~

(1) ~~To appoint~~ Appoint and fix the compensation of the Commissioner of Education;

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

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

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

(5) ~~To provide~~ Provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system, including educational service units. In order that the commissioner and his or her staff may carry out their duties, the board shall, through the commissioner: (a) Provide supervisory and

consultative consultation services to the schools of the state; (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs; (c) establish rules and regulations which govern standards and procedures for the approval and legal operation of all schools in the state and for the accreditation of all schools requesting state accreditation. All public, private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section ~~79-4,140-16~~ 377 of this act or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in this section and subsections (2) through (4) (5) of section 79-1701. Such standards 1004 of this act. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern procedures and standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (4) (5) of section 79-1701 1004 of this act, not to meet state accreditation or approval requirements shall be as described in such section; based upon evidence that such schools offer a program of instruction leading to the acquisition of basic skills in the language arts, mathematics, science, social studies, and health. Such rules and regulations may include a provision for the visitation of such schools and regular achievement testing of students attending such schools in order to insure that such schools are offering instruction in the basic skills listed in this subdivision. Any arrangements for visitation or testing shall be made through a parent representative of each such school. The results of such testing may be used as evidence that such schools are offering instruction in such basic skills but shall not be used to measure, compare, or evaluate the competency of students at such schools; (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems if it determines such testing would be advisable; (e) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (f) cause to be published laws, rules, and regulations governing the schools and the school lands and funds with explanatory notes for the guidance of those charged with the administration of the schools of the state; (g) approve teacher education programs conducted in Nebraska postsecondary educational institutions of higher education designed for the purpose of certifying teachers and administrators; (h) approve teacher evaluation policies and procedures developed by school districts and educational service units; and (i) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature;

(6) ~~To adopt~~ Adopt and promulgate rules and regulations for the guidance, supervision, accreditation, and coordination of educational service units. Such rules and regulations for accreditation shall include, but not be limited to, (a) a requirement that programs and services offered ~~the school district to school districts~~ by each educational service unit shall be evaluated on a regular basis, but not less than every seven years, to assure that educational service units remain responsive to school district needs and (b) guidelines for the use and management of funds, generated from the property tax levy and from other sources of revenue as may be available to the educational service units, to assure that public funds are used to accomplish the purposes and goals assigned to the educational service units by section ~~79-2201-02~~ 921 of this act. The State Board of Education shall establish procedures to encourage the coordination of activities among educational service units and to encourage effective and efficient educational service delivery on a statewide basis;

(7) ~~To submit~~ Submit a biennial report to the Governor and the Clerk of the Legislature covering the actions of the board, the operations of the State Department of Education, and the progress and needs of the schools and ~~to recommend~~ such legislation as may be necessary to satisfy these needs;

(8) ~~To cause to be prepared and distributed~~ Prepare and distribute reports designed to acquaint school district officers, teachers, and patrons of the schools with the conditions and needs of the schools;

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

(10) ~~To cause such~~ Make studies, investigations, and reports ~~to be~~

made and such information assembled as are and assemble information as necessary for the formulation of policies, for making plans, for evaluating the state school program, and for making essential and adequate reports;

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

(12) ~~To interpret~~ Interpret its own policies, standards, rules, and regulations and, upon reasonable request, hear complaints and disputes arising therefrom;

(13) With the advice of the Department of Motor Vehicles, ~~to adopt and promulgate rules and regulations containing reasonable standards, not inconsistent with existing statutes, governing:~~ (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for the transportation of school children; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ten or less passengers used for the transportation of school children students, when such vehicles are ~~either owned, or operated, or owned and operated,~~ by any school district or privately owned or operated under contract with any school district in this state. Similar rules and regulations shall be adopted and promulgated for operators of such vehicles as provided in section 368 of this act; to physical and mental qualities, driving skills and practices, and knowledge of traffic laws, rules, and regulations which relate to school bus transportation. Such traffic rules and regulations shall by reference be made a part of any such contract with a school district. Any officer or employee of any school district who violates any of the traffic rules or regulations or fails to include obligations to comply with the traffic rules and regulations in any contract executed by him or her on behalf of a school district shall be guilty of a Class V misdemeanor and shall, upon conviction thereof, be subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of such traffic rules and regulations shall be guilty of breach of contract, and such contract shall be canceled after notice and hearing by the responsible officers of such school district.

(14) ~~To accept~~ Accept, on behalf of the Nebraska School for the Visually Handicapped, on behalf of the Nebraska School for the Deaf, or on behalf of any school for children students with mental retardation which is exclusively owned by the State of Nebraska and under the control and supervision of the State Department of Education, devises of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of any such school or the students attending thereat such school, or both, and may cause irrigate or otherwise improve any such real estate to be irrigated or otherwise improved when in ~~its~~ the board's judgment it would be advisable to do so; and

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

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

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

Sec. 147. Section 79-329, Reissue Revised Statutes of Nebraska, is amended to read:

79-329. The State Board of Education ~~shall have~~ has the authority ~~(1)~~ (1) to provide for the education of and approve special educational facilities and programs provided in the public schools for handicapped children with disabilities, (2) ~~to act as the state's authority for the approval of all types of veterans educational programs which are financially supported in whole or in part by the federal government,~~ (3) ~~to supervise and administer any educational or training program which may hereafter be established within the state by the federal government, except higher postsecondary education in approved colleges,~~ (4) ~~to coordinate educational activities in the state that pertain to elementary and secondary education and such other educational programs as are placed by statute under the~~

jurisdiction of the board, (5) ~~to~~ receive and distribute according to law any money, commodities, goods, or services made available to the board from the state or federal government or from any other source and ~~to~~ distribute money in accordance with the terms of any grant received, including the distribution of money from grants by the federal government to schools, preschools, day care centers, day care homes, nonprofit agencies, and political subdivisions of the state or institutions of learning not owned or exclusively controlled by the state or a political subdivision thereof, so long as no public funds of the state, any political subdivision, or any public corporation are added thereto to such federal grants, (6) ~~to~~ publish, from time to time, directories of schools and educators, pamphlets, curriculum guides, rules and regulations, handbooks on school constitution and other matters of interest to educators, and similar publications. Such ~~and~~ which publications may be distributed without charge to schools and school officials within this state or may be sold at a price not less than the actual cost of printing. The with the proceeds of such sale being transmitted shall be remitted to the State Treasurer for deposit in the state treasury to the credit of credit to the State Department of Education Cash Fund which may be used by the State Department of Education for the purpose of printing and distributing further such publications on a nonprofit basis. The board shall ~~and~~ ~~to~~ furnish eight copies thereof of such publications to the Nebraska Publications Clearinghouse, and (7) when necessary for the proper administration of the functions of the department and with the approval of the Governor and the Department of Administrative Services, ~~to~~ rent or lease space outside the State Capitol.

Sec. 148. Section 79-329.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-329-01-~~ The State Board of Education ~~shall have the~~ has the authority to purchase and maintain insurance, on behalf of the Commissioner of Education, or any person who is or was a member, officer, employee, or agent of the State Board of Education, against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the State Board of Education would have the power to indemnify the individual against such liability under any other provision of law.

Sec. 149. Section 79-330, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-330-~~ (1) The State Board of Education shall replace the State Board of Vocational Education and, when acting as the State Board of Vocational Education, shall assume the duties and powers provided in sections ~~79-1419 to 79-1429~~ 412 to 418 of this act.

(2) The Commissioner of Education shall be the executive ~~secretary~~ officer of the State Board of Vocational Education, and upon the recommendation of the commissioner, the State Board of Vocational Education shall appoint an assistant commissioner of education in charge of vocational education.

#### ARTICLE 4 - SCHOOL ORGANIZATION AND REORGANIZATION

##### PART (a) - LEGISLATIVE GOALS, DIRECTIVES, AND LIMITATIONS FOR REORGANIZATION OF SCHOOL DISTRICTS

Sec. 150. Section 79-426.27, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-27-~~ The Legislature hereby finds and declares that orderly and appropriate reorganization of school districts may contribute to the objectives of tax equity, educational effectiveness, and cost efficiency. The Legislature further finds that there is a need for greater flexibility in school reorganization options and procedures. It is the intent of the Legislature to encourage an orderly and appropriate reorganization of school districts. The Legislature hereby establishes as its goals for the reorganization of school districts that:

(1) All real property and all elementary and secondary students should be within school systems which offer education in grades kindergarten through twelve. For purposes of meeting this goal, Class I and Class VI school district combinations shall be considered as including all real property and all elementary and secondary students within a school district which offers education in kindergarten through grade twelve;

(2) School districts offering education in kindergarten through grade twelve should be encouraged, when possible, to consider cooperative programs in order to enhance educational opportunities to students;

(3) County reorganization committees should make a renewed effort to consider and plan for reorganization of schools at the local level; and

(4) The State Department of Education in conjunction with the Bureau of Educational Research and Field Studies in the Department of Education Administration at the University of Nebraska-Lincoln should be encouraged to offer greater technical assistance to school districts which are considering reorganization options.

Sec. 151. Section 79-426.28, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-28-~~ (1) By July 1, 1993, all taxable property and all elementary and high school students shall be in school systems which offer education in grades kindergarten through twelve. For purposes of meeting such requirement, a Class I district or portion thereof which is part of a Class VI district and a Class I district or portion thereof affiliated with one or more Class II, III, IV, or V districts shall be considered to include all taxable property and all elementary and high school students within a school system which offers education in grades kindergarten through twelve.

(2) Effective July 1, 1993, with the full implementation of section ~~79-438-12~~ 723 of this act, the Legislature will have attained its school reorganization goals for Class I districts as described in section ~~79-426-27~~ 150 of this act.

Sec. 152. Section 79-102.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-102-01-~~ (1) Except as provided in subsection (2) of this section, no new school district shall be created unless such district provides instruction in kindergarten through grade twelve.

(2) A new Class VI school district may be created if:

(a) Such Class VI school district will include at least two or more previously existing Class II or Class III school districts, except that if a reorganization petition for formation of a Class VI school district is initiated by a petition signed by sixty-five percent of the legal voters of a Class II or III school district, then such Class VI school district may include only one Class II or III school district; and

(b) The enrollment of the new Class VI school district is (i) at least one hundred twenty-five pupils if the district offers instruction in grades nine through twelve or (ii) at least one hundred seventy-five pupils if the district offers instruction in grades seven through twelve, except that if such district will have population density of less than three persons per square mile, then the enrollment shall be at least seventy-five students if the district offers instruction in grades nine through twelve or at least one hundred students if the district offers instruction in grades seven through twelve.

Sec. 153. Section 79-102.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-102-02-~~ Section ~~79-102-01~~ shall 152 of this act does not prohibit the merger of Class I districts or parts of Class I districts within the boundaries of a Class VI district.

ARTICLE 4

PART (b) - LEGAL STATUS, FORMATION, AND TERRITORY

Sec. 154. Section 79-401, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-401-~~ Every duly organized school district shall be a body corporate and possess all the usual powers of a corporation for public purposes, may sue and be sued, and may purchase, hold, and sell such personal and real estate as the law allows. The county in which the principal office of the school district is located together with the school district number assigned pursuant to section ~~79-301~~ 135 of this act shall constitute the corporate name of the school district, such as ..... County School District .....

Sec. 155. A Class II school district shall be created whenever a Class I school district determines to establish a high school by a majority vote of the qualified voters at an annual or special meeting.

The members of the school board serving when it is decided to establish a high school shall continue in office until the first Tuesday in June following the next statewide primary election. The Class II school district board shall be elected pursuant to section 32-542.

Sec. 156. Section 79-801, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-801-~~ (1) The territory embraced within the corporate limits of each incorporated city or village in the State of Nebraska, together with such additional territory and additions to such city or village as may be added thereto, as declared by ordinances to be boundaries of such city or village,

having a population of more than one thousand and less than one hundred thousand inhabitants, including such adjacent territory as now is or hereafter may be attached for school purposes, shall constitute a Class III school district, of the third class. The school district shall be a body corporate and possess all the usual powers of a corporation for public purposes and may sue and be sued, purchase, hold, and sell such personal and real property, and control such obligations as are authorized by law. The title to all school buildings or other real or personal property, real or personal, owned by any school district within the corporate limits of any city or village shall, upon the organization of the school district, vest immediately in the new school district. The board of education of the new school district shall have exclusive control of the same such buildings and real or personal property for all purposes herein contemplated, except in this section, except as provided in section 222 of this act. that if the territory annexed by a change of boundaries of such city has been part of a Class IV or V school district prior to such annexation, a merger of the annexed territory with the Class III school district shall become effective only if the merger is approved by a majority of the members of the board of education of the Class IV or V school district and a majority of the members of the board of education of the Class III school district within ninety days after the effective date of the annexation ordinance.

(2) Notwithstanding subsection (1) of this section, when territory which lies within a Class III school district, Class VI school district, or Class I school district which is attached to a Class VI school district or which does not lie within a Class IV or V school district is annexed by a city or village pursuant to this section, the affected school board of the city or village school district and the affected school board or boards serving the territory subject to the annexation ordinance shall meet within thirty days of the effective date of the annexation ordinance and negotiate in good faith as to which school district shall serve the annexed territory and the effective date of any transfer. During the process of negotiation, the affected school boards shall consider the following criteria:

- (a) The educational needs of the students in the affected school districts;
- (b) The economic impact upon the affected school districts;
- (c) Any common interests between the annexed or platted area and the affected school districts and the community which has zoning jurisdiction over the area; and
- (d) Community educational planning.

If no agreement has been reached within ninety days of the effective date of the annexation ordinance, the territory shall transfer to the school district of the annexing city or village ten days thereafter unless an affected school district petitions the district court within the ten-day period and obtains an order enjoining the transfer and requiring the school boards of the affected school districts to continue negotiation. The court shall issue the order upon a finding that the affected school board or boards have not negotiated in good faith based on one or more of the criteria listed in this subsection. The district court shall require no bond or other surety as a condition for any preliminary injunctive relief. If no agreement is reached after such order by the district court and additional negotiations, the annexed territory shall become a part of the school district of the annexing city or village.

(3) If, within the boundaries of the annexed territory, there exists a Class VI school, the school building, facilities, and land owned by the school district shall remain a part of the Class VI school district. If the Class VI school district from which territory is being annexed wishes to dispose of such school building, facilities, or land to any individual or political subdivision, including a Class I school district, the question of such disposition shall be placed on the ballot for the next primary or general election. All registered voters of such Class VI school district shall then vote on the question at such election. A simple majority of the votes cast shall resolve the issue.

(4) Whenever an application for approval of a final plat or replat is filed for territory which lies within the zoning jurisdiction of a city of the first or second class and does not lie within the boundaries of a Class IV or V school district, the affected school board of the city school district or its representative and the affected school board or boards serving the territory subject to the final plat or replat or their representative shall meet within thirty days of such application and negotiate in good faith as to which school district shall serve the platted or replatted territory and the effective date of any transfer based upon the criteria prescribed in subsection (2) of this section.

If no agreement has been reached prior to the approval of the final plat or replat, the territory shall transfer to the school district of the city of the first or second class upon the filing of the final plat unless an affected school district petitions the district court within ten days of approval of the final plat or replat and obtains an order enjoining the transfer and requiring the affected school boards to continue negotiation. The court shall issue the order upon a finding that the affected board or boards have not negotiated in good faith based on one or more of the criteria listed in subsection (2) of this section. The district court shall require no bond or other surety as a condition for any preliminary injunctive relief. If no agreement is reached after such order by the district court and additional negotiations, the platted or replatted territory shall become a part of the school district of the city of the first or second class.

For purposes of this subsection, plat and replat shall apply only to (a) vacant land; (b) land under cultivation; or (c) any plat or replat of land involving a substantive change in the size or configuration of any lot or lots.

(5) Notwithstanding any other provisions of this section, all negotiated agreements relative to boundaries or to real or personal property of school districts reached by the affected boards of education shall be valid and binding.

Sec. 157. Section 79-901, Reissue Revised Statutes of Nebraska, is amended to read:

79-901. The territory now or hereafter embraced within each incorporated city of the primary class in the State of Nebraska, such adjacent territory as now or hereafter may be included therewith for school purposes, and such territory not adjacent thereto as may have been added thereto by law shall constitute a Class IV school district. A Class IV school district of the fourth class. It shall be a body corporate and possess all the usual powers of a corporation for public purposes, and may sue and be sued, and may purchase, hold, and sell such personal and real estate, and contract such obligations as are authorized by law. The powers of a Class IV district include, including; but are not limited to, the power to adopt, administer, and amend from time to time such retirement, annuity, insurance, and other benefit plans for its present and future employees after their retirement, or any reasonable classification thereof, as may be deemed proper by the board of education. The board of education shall not be authorized to establish a retirement system for new employees supplemental to the School Employees Retirement System.

The title to all real or personal property, real or personal, owned by such school district shall, upon the organization thereof of the school district, vest immediately in the school district so created. The board of education shall have exclusive control of all property belonging to the school district.

In the discretion of the board of education, funds accumulated in connection with a retirement plan may be transferred to and administered by a trustee or trustees to be selected by the board of education, or if the retirement plan shall be is in the form of annuity or insurance contracts, such funds, or any part thereof, may be paid to a duly licensed insurance carrier or carriers selected by the board of education. Funds accumulated in connection with any such retirement plan, and any other funds of the school district which are not immediately required for current needs or expenses, may be invested and reinvested by the board of education or by its authority in securities of a type permissible either for the investment of funds of a domestic legal reserve life insurance company or for the investment of trust funds, according to the laws of the State of Nebraska.

Sec. 158. Section 79-1001, Reissue Revised Statutes of Nebraska, is amended to read:

79-1001. Each incorporated city of the metropolitan class in the State of Nebraska shall constitute one Class V school district. A Class V school district of the fifth class. It shall be a body corporate and possess all the usual powers of a corporation for public purposes and may sue and be sued, purchase, hold, and sell such personal and real estate property, and control such obligations as are authorized by law.

Sec. 159. Section 79-1101, Reissue Revised Statutes of Nebraska, is amended to read:

79-1101. All school districts organized as of August 27, 1949, as rural high school districts or as county high school districts, and all school districts hereafter formed as high school districts only, shall be Class VI school districts, of the sixth class.

Sec. 160. Section 79-1109, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1199.~~ The electors of any Class VI school district may, by a fifty-five percent majority affirmative vote of those present and voting on the issue at an annual or special meeting or special election of the district, extend the grade offerings of that district to include grades seven and eight. If the vote is by special election, such election shall be conducted by the county clerk or election commissioner in accordance with the Election Act. ~~Such a~~ If the issue receives such fifty-five percent majority affirmative vote, the school district ~~would~~ shall then be known as a Class VI junior-senior high school district and ~~would~~ shall be supported in the same manner as was provided for the support of the district previous to the extension of its grade offerings. In such an election, the electors of all Class I school districts in which there is located an incorporated city or village shall vote separately and the remaining Class I school districts shall vote separately as a unit either for a plan for the individual district or with more districts as determined by the vote by the election. Fifty-five percent of the votes cast in each voting unit shall be in favor of the proposition to put such a plan into operation.

Sec. 161. Section 79-421, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-421.~~ The boundary line or part thereof of all school districts which border on any river that is the boundary line between the State of Nebraska and any other state shall be identical with the boundary line of the state.

#### ARTICLE 4

##### PART (c) - PETITION PROCESS FOR REORGANIZATION

Sec. 162. Section 79-402, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402.~~ (1) The county superintendent shall create a new school district from other districts, change the boundaries of any district, or affiliate a Class I district or portion thereof with one or more existing Class II, III, IV, or V districts upon receipt of petitions signed by sixty percent of the legal voters of each district affected. If (a) except that petitions shall contain signatures of at least sixty-five percent of the legal voters of each district affected if the proposed change has been disapproved by both the state State Committee for the Reorganization of School Districts created under section 184 of this act and county committees for school district reorganization the county committee for the reorganization of school districts created under section 186 of this act or, (b) in the case of affiliation, if the petition has been disapproved by the county committee pursuant to sections 79-402-14 and 79-402-15 174 and 175 of this act, the county superintendent shall make the proposed change upon receipt of petitions containing signatures of at least sixty-five percent of the legal voters of each district affected. When area is added to a Class VI district or when a Class I district which is entirely or partially within a Class VI district is taken from the Class VI district, the Class VI district shall be deemed to be an affected district.

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

(3)(a) Petitions proposing to create a new school district, to change the boundary lines of existing school districts, to create an affiliated school system, or to affiliate a Class I district in part and to join such district in part with a Class VI district, any of which involves the transfer of more than six hundred forty acres, shall, when signed by at least sixty percent of the legal voters in each district affected, be submitted to the county committee, ~~for school district reorganization.~~ In the case of a petition for affiliation or a petition to affiliate in part and in part to join a Class VI district, the county committee shall review the proposed affiliation subject to sections ~~79-402-14 and 79-402-15 174 and 175 of this act.~~ The county committee shall, within forty days after receipt of the petition, review and approve or disapprove such proposal and submit it to the state committee, ~~for school district reorganization,~~ except that an affiliation petition or a petition to affiliate in part and in part to join a Class VI district shall not be submitted to the state committee and the county committee's approval or disapproval shall be final.

(b) The state committee shall, within forty days after receipt of the petition from the county committee under subdivision (a) of this subsection, review and approve or disapprove the proposal and return it with any recommendations deemed advisable to the county committee. The county committee shall, within fifteen days of after receipt of the returned proposal, consider the action of the state committee and determine whether to give final approval or disapproval to the proposal.

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

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

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

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

Sec. 163. Section 79-402.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-08-~~ A list or lists of all the legal voters in each district or territory affected, made under the oath of a resident of each district or territory, shall be given to the county superintendent when the petition is presented to him or her under section 162 of this act.

Sec. 164. Section 79-402.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-03-~~ (1) In addition to the petitions of legal voters pursuant to section 79-402 162 of this act, changes in boundaries and the creation of a new school district from other districts may be initiated and accepted by:

(a) The board of education of any Class III, IV, V, or VI district; and

(b) The board of education school board of any Class I or II district in which is located a city or incorporated village.

(2) In addition to the petitions of legal voters pursuant to section 79-402 162 of this act, the affiliation of a Class I district or portion thereof with one or more Class II, III, IV, or V districts may be initiated and accepted by:

(a) The board of education of any Class II, III, IV, or V district; and

(b) The board of education school board of any Class I district in which is located a city or incorporated village.

Sec. 165. Section 79-402.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-04-~~ When the legal voters of a Class I or Class II school district in which no city or village is located petition to merge in whole or in part with a Class I or Class II district, the merger may be accepted by petition of the board of education school board of the accepting district. When the legal voters of a Class I district petition to affiliate in whole or in part with one or more Class II, III, IV, or V districts, such affiliation may be accepted or rejected by petition of the school board or board of education of any such district, but in either case the petition to affiliate shall be accepted or rejected within sixty days of after the date of receipt of the petition by the school board or board of education of such district.

Sec. 166. Section 79-402.05, Reissue Revised Statutes of Nebraska,

is amended to read:

~~79-402-05.~~ When the legal voters of a Class I school district petition to merge with a Class I district with a six-member board of education school board, such merger may be accepted by petition of the board of education school board of the accepting district.

Sec. 167. Section 79-402.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-06.~~ Petitions presented pursuant to sections ~~79-402-03 to 79-402-05~~ 164 to 166 of this act shall be subject to the same requirements for content, hearings, notice, review, and appeal as petitions submitted pursuant to section ~~79-402~~ 162 of this act, except that a petition presented pursuant to section ~~79-402-03~~ 164 of this act shall not become effective unless it is approved by a vote of a majority of the members of the state committee for school district reorganization State Committee for the Reorganization of School Districts. If such petition is not approved, the final hearing by the county committee for school district the reorganization of school districts and the county superintendent shall not be held. Any person adversely affected by the disapproval shall have the right of appeal under section ~~79-402~~ 162 of this act.

Sec. 168. Section 79-402.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-07.~~ (1) When a new district is to be created from other districts as provided in section ~~79-402~~ 162 of this act, the petition shall contain:

(a) ~~(1)~~ A description of the proposed boundaries of the reorganized districts;

(b) ~~A~~ ~~(2)~~ a summary of the terms on which reorganization is to be made between the reorganized districts, ~~which~~ ~~and~~ such terms may include a provision for initial school board districts or wards within the proposed district for the appointment of the first school board or board of education and also for the first election as provided in section ~~79-426-19~~, ~~such~~ 200 of this act, which proposed initial school board districts or wards ~~to~~ shall be determined by the county committee for the reorganization of school districts taking into consideration population and valuation, and a determination of the ~~term~~ terms of the board members first appointed to membership of the board of the newly reorganized district;

(c) ~~A~~ ~~(3)~~ a map showing the boundaries of established school districts and the boundaries proposed under any plan or plans of reorganization; and

(d) ~~Such~~ ~~(4)~~ such other matters as the petitioners shall determine proper to be included. Any petition for the creation of a new Class VI district shall designate whether such district shall include high school grades only or grades seven through twelve.

(2) ~~A~~ petition under subsection (1) of this section ~~The petition~~ may contain provisions for the holding of school within existing buildings in the newly reorganized district and that a school constituted under the provisions of this section shall be maintained from the date of reorganization unless the legal voters served by the school vote by a majority vote for discontinuance of the school.

Sec. 169. Section 79-402.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-09.~~ Within thirty days after the creation of a new school district pursuant to sections ~~79-402 and 79-402-03 to 79-402-08~~ 162 to 168 of this act, the county reorganization committee for the reorganization of school districts shall appoint from among the qualified electors of the new school district created the number of members necessary to constitute a school board or board of education of the class in which the new school district has been classified. If the new school district involves territory lying in the jurisdiction of two or more counties, the board of education shall be appointed by the joint action of the county reorganization committees for the reorganization of school districts of the counties involved. Members of the first board shall be appointed so that their terms will expire in accord with provisions of law governing school districts of the class involved. The board of education so appointed shall proceed at once to organize in the manner prescribed by law. A reorganized school district shall be formed, organized, and have a governing board not later than April 1 following the last legal action, as prescribed in section ~~79-402~~ 162 of this act, necessary to effect the changes in boundaries as set forth in the petition, although the physical reorganization of such reorganized school district may not take effect until the commencement of the following school year. At the next annual school meeting or election following the establishment of the new school district and at subsequent annual meetings or elections, successors shall be elected in the

manner provided by law for election of board members of the class to which the school district belongs.

Sec. 170. Section 79-402.10, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402.10.~~ (1) When it ~~shall come~~ comes to the attention of the county superintendent that any territory located wholly within his or her county is not included in any organized district, he or she shall notify the county committee for school district reorganization the reorganization of school districts. Within fifteen days of after such notice, the county committee shall set a date for a hearing on the question of to which the district or districts to which such territory should be attached, and shall give fifteen days' notice by certified or registered mail of the time and place of hearing to each legal voter residing in such territory and whose mailing address is known, and also to the school board or board of education of each school district in the county adjacent to such territory. Notice of the hearing also shall be given by publication once each week for two weeks in a newspaper of general circulation in the county. Following such hearing, the county committee shall notify the county superintendent to which of the district or districts to which such territory should be attached, and the county superintendent shall attach such territory.

(2) When any such territory not in any organized district is located in more than one county, notice shall be given to the joint committee provided for in section 79-426-09, whose duty it shall be to 190 of this act. The joint committee shall give the prescribed notice of and hold the hearing on the question of to which the district or districts to which such territory shall be attached. Notice of the decision reached by the joint committee shall be given to the respective county superintendents, who and the county superintendents shall attach the territory in accordance with such decision.

(3) If the county committee or joint committee cannot or does not agree on the to which district or districts to which the territory shall be attached, within sixty days after being notified by the county superintendent, the matter shall be referred to the State Board of Education, which shall attach the territory after notice and hearing. Notice shall be given in the same manner as by the county committee.

(4) In determining the district or districts to which such territory shall be attached, consideration shall be given to the school facilities, transportation facilities, and distance children must travel to school.

(5) Territory may be annexed to a district from an adjoining county upon joint action by special committees as provided in section 79-426-09 190 of this act with such special committees performing the responsibilities required by this section.

Sec. 171. Section 79-402.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402.11.~~ (1) Bonded indebtedness approved by legal voters prior to any change in school district boundary lines pursuant to sections 79-402 and 79-402-03 to 79-402.10 162 to 170 of this act shall remain the obligation of the school district voting such bonds unless otherwise specified in the petitions. When a district is dissolved by petitions and the area is attached to two or more districts, the petitions shall specify the disposition of assets and unbonded obligations of the original district.

(2) Bonded indebtedness approved by legal voters for high school facilities prior to the establishment of an affiliation shall remain the obligation of the high school district unless otherwise specified in the petitions.

Sec. 172. Section 79-402.12, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402.12.~~ School in Class I, II, III, IV, and VI school districts, school district boundaries may comprise all or any part of a precinct or ward in any county or counties, and every registered voter of the school district shall be entitled to vote at any school district meeting or school district election if he or she is properly registered with the county clerk or election commissioner and is domiciled in the precinct or ward where registered and which lies in whole or in part within the boundaries of the school district. The provisions of this section and sections 79-426 to 79-430 shall not apply to Class V districts.

Sec. 173. Section 79-402.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402.13.~~ A Class I school district or portion thereof which is not part of a Class VI district on July 10, 1990, may, prior to February 1, 1993, file a petition for affiliation pursuant to section 79-402; 79-402-03; or 79-402-04 162, 164, or 165 of this act or a plan for affiliation pursuant to section 79-426-08 189 of this act with the county superintendent to

affiliate with one or more Class II, III, IV, or V districts, or to affiliate in part with one or more Class II, III, IV, or V districts and in part to become part of one or more Class VI districts. Affiliation shall be accomplished pursuant to any of the procedures prescribed in sections 79-402 to 79-402-08 and the Reorganization of School Districts Act and sections 162 to 168 of this act.

Sec. 174. Section 79-402.14, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-14.~~ If a petition for affiliation pursuant to section 79-402, ~~79-402-03,~~ or 79-402-04 ~~162, 164, or 165 of this act~~ or plan for affiliation proposed under section 79-426-08 ~~189 of this act~~ is rejected by the ~~school board or~~ board of education or the legal voters of a Class II, III, IV, or V school district, such petition or plan may be resubmitted after sixty days from the date of the rejection, and the board of education or legal voters receiving such petition or plan for affiliation shall either accept or reject such petition or plan within sixty days ~~of~~ after the date of receipt of such petition or plan. If the petition or plan for affiliation is again rejected by the board or legal voters of such district, the county committee for ~~school district reorganization~~ the reorganization of school districts shall hold a hearing pursuant to the procedures provided in section 79-402 ~~162 of this act~~ and, within ten days ~~of~~ after such hearing, make a determination whether to approve or reject the affiliation.

Sec. 175. Section 79-402.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-15.~~ A county committee for ~~school district reorganization~~ the reorganization of school districts, when considering a petition or a plan to affiliate a Class I school district or portion thereof with one or more Class II, III, IV, or V school districts, shall consider the traditional high school attendance patterns of resident students of such Class I district. The county committee may reject a petition or plan to affiliate only when (1) no Class I district resident student has attended the high school program of the Class II, III, IV, or V district with which an affiliation is proposed during the immediately preceding ten-year period, (2) the affiliation would require the construction of new high school facilities, or (3) the affiliation would result in assignment of less than forty percent of the valuation of the Class I district to a high school district which over the immediately preceding five-year period has educated eighty percent or more of the students from such Class I district. The petition shall stand rejected notwithstanding that it has been signed by over sixty-five percent of the legal voters of the petitioning Class I district.

Sec. 176. Section 79-402.16, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-16.~~ A petition for affiliation pursuant to sections 79-402, ~~79-402-03,~~ and 79-402-04 ~~162, 164, and 165 of this act~~ and a plan for affiliation pursuant to section 79-426-08 ~~189 of this act~~ shall contain (1) a description and a map of the proposed boundaries of the affiliated school system and (2) terms of the affiliation, including (a) coordination of elementary curriculum subject to section 79-4, ~~158-01~~ ~~390 of this act~~ and (b) provision for the establishment and maintenance of an advisory committee as prescribed by section 79-4, ~~105-01~~ ~~252 of this act~~. An affiliation plan or a petition may include provisions allowing parents to continue educating their children in the district in which they currently have children enrolled with reimbursement to be paid to the receiving district from the affiliated high school district based on the per pupil cost for high school students of such districts as reported on the preceding year's annual financial report.

Sec. 177. Section 79-402.17, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-17.~~ (1) If a Class I district or portion thereof which is not part of a Class VI district and which does not have territory in more than one county has not (a) merged, affiliated, or approved a plan for merging or affiliating with a Class II, III, IV, or V district or (b) approved a plan to become part of or a plan to affiliate in part and in part to become part of one or more existing or new Class VI districts before February 1, 1993, the county committee for the reorganization of school districts shall plan to (i) dissolve and attach such district to an existing Class II, III, IV, or V district or (ii) make such district part of an existing Class VI district on or before July 1, 1993.

(2) If any Class I district or portion thereof which is not part of a Class VI district and which has territory in more than one county has not (a) merged, affiliated, or approved a plan for merging or affiliating with a Class II, III, IV, or V district or (b) approved a plan to become part of one or more existing or new Class VI districts or to affiliate in part with one or

more Class II, III, IV, or V districts and in part become part of one or more existing or new Class VI districts prior to February 1, 1993, a joint committee, as provided in section 79-426-09, 190 of this act shall plan to (i) dissolve and attach such district to an existing Class II, III, IV, or V district or (ii) make such district part of an existing Class VI district on or before July 1, 1993.

Sec. 178. Section 79-402.18, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-18-~~ Before March 1, 1993, the county committee for the reorganization of school districts or joint ~~reorganization~~ committee established under section 190 of this act shall set a date for a hearing to determine to which ~~the~~ district or districts to which the territory of the Class I district specified in section 79-402-17 177 of this act shall be attached or added and shall give fifteen days' notice by certified or registered mail of the time and the place of hearing to the school board or board of education of each district having grades kindergarten through twelve which may be affected by such attachment or addition. Public notice of the hearing shall also be given within fifteen days prior to the hearing date by publication once each week for two consecutive weeks in a newspaper of general circulation in the county or counties involved. Following such hearing, the county committee or joint ~~reorganization~~ committee shall notify the county superintendent of the ~~to~~ which district or districts to which such territory will be attached or added and the county superintendent shall attach or add such territory on or before July 1, 1993.

Sec. 179. Section 79-402.19, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-19-~~ If, by May 1, 1993, the county committee for the reorganization of school districts or the joint ~~reorganization~~ committee established under section 190 of this act fails to plan to dissolve and attach all Class I districts specified in section 79-402-17 177 of this act to an existing district or gives notice that it will not be able to meet the requirements prescribed by law to implement section 79-426-28 151 of this act, each member of the committee shall be penalized by a fine equal to the total amount reimbursed as expenses to such member for serving on the committee during the previous twelve-month period, and the matter shall be referred to the State Committee for the Reorganization of School Districts which shall attach or add the territory to an existing district on or before September 1, 1993.

Sec. 180. Section 79-402.20, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-402-20-~~ (1) Any Class I school district which is part of a Class VI district or districts or any Class I district or portion thereof which is affiliated or affiliated in part and also part of a Class VI district or districts and which (a) becomes subject to dissolution pursuant to section 79-420, 79-486, or 79-603 219, 247, or 351 of this act or (b) otherwise dissolves, unless otherwise prescribed in the affiliation petition, shall be merged with another affiliated Class I district, be merged with a Class II, III, IV, or V district, or be merged with a Class I district which is part of a Class VI district or districts. Any such district or portion thereof which fails to comply with this subsection shall be subject to the provisions of sections 79-402-17 to 79-402-19 177 to 179 of this act and shall be dissolved and attached to an existing Class II, III, IV, or V district. Any such district or portion thereof which was affiliated shall retain its original affiliation, and any portion of such district which was part of a Class VI district shall remain part of such Class VI district. After July 1, 1993, any school district which fails to comply with the provisions of subsection (1) of section 79-426-28 151 of this act shall be dissolved by the county superintendent and attached to an existing Class II, III, IV, or V district.

(2) A Class II, III, IV, or V district which becomes a Class I district pursuant to section 79-701 221 of this act or any other state law shall merge with a Class II, III, IV, or V district, affiliate with one or more Class II, III, IV, or V districts, become part of one or more Class VI districts, or affiliate in part with one or more Class II, III, IV, or V districts and in part become part of one or more Class VI districts.

(3) After July 1, 1993, if an affiliated Class II, III, IV, or V district dissolves, unless otherwise stated in the affiliation petition, any portions of a Class I district that are affiliated with such district may affiliate with another Class II, III, IV, or V district, merge with any Class I, II, III, IV, or V district, or become part of a Class VI district.

(4) After July 1, 1993, if a Class VI district dissolves, any Class I district or portions thereof which are part of such district may affiliate with a Class II, III, IV, or V district, merge with any Class I, II, III, IV,

or V district, or become part of another Class VI district.

#### ARTICLE 4

##### PART (d) - THE ELECTION PROCESS FOR REORGANIZATION (THE REORGANIZATION OF SCHOOL DISTRICTS ACT)

Sec. 181. Section 79-426.22, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.22.~~ Sections ~~79-426.01 to 79-426.19 and 79-426.22~~ 181 to 200 of this act shall be known and may be cited as the Reorganization of School Districts Act.

Sec. 182. Section 79-426.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.01.~~ For purposes of the Reorganization of School Districts Act, unless the context otherwise requires:

(1) Reorganization of school districts ~~shall mean means~~ the formation of new school districts, the alteration of boundaries of established school districts, the affiliation of school districts, and the dissolution or disorganization of established school districts through or by means of any one or combination of the methods set out in section ~~79-426.02~~ 183 of this act;

(2) State committee ~~shall mean means~~ the State Committee for the Reorganization of School Districts created by section ~~79-426.03~~ 184 of this act;

(3) County committee ~~shall mean means~~ the county committee for the reorganization of school districts created by section ~~79-426.05~~ 186 of this act; and

(4) Plan of reorganization ~~shall mean means~~ a concrete proposal for readjustment and realignment of the boundaries of any or all school districts within a county.

Sec. 183. Section 79-426.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.02.~~ Reorganization of school districts may be ~~had and~~ accomplished through or by means of any one or more of the following methods: (1) The creation of new districts; (2) the uniting of one or more established districts; (3) the subdivision of one or more established districts; (4) the transfer and attachment to an established district of a part of the territory of one or more districts; (5) the affiliation of a Class I district or portion thereof with one or more Class II, III, IV, or V districts; (6) the changing of boundaries of a Class VI district; and (7) the dissolution or disorganization of an established district for any of the reasons specified by law.

Sec. 184. Section 79-426.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.03.~~ There is hereby created a The State Committee for the Reorganization of School Districts, to be known as the state committee is created. The state committee shall be composed of six members. One member of the state committee shall be the The Commissioner of Education shall be a member of the committee ex officio, who and shall serve as a nonvoting member of the committee. Within thirty days after September 18, 1955, the State Board of Education, by a resolution adopted with the assent of a majority of its members, shall appoint the remaining five members of the state committee, one each for terms of one, two, three, four, and five years respectively. As the term of each ~~such member shall expire expires~~, a successor shall be appointed in the same manner for a term of five years. ~~The present members of the state committee, as heretofore constituted, shall continue to act until the State Board of Education has appointed the new membership as above provided, at which time the terms of the present members shall end.~~ Three members shall at all times be persons holding teachers' certificates issued by the authority of the State of Nebraska. Vacancies in the membership of the state committee shall be filled for the unexpired term by appointment in the same manner as the original appointment to membership. Members of the state committee shall serve without compensation; but shall be reimbursed for expenses necessarily incurred in the performance of their duties, ~~the reimbursement to be allowed as provided in sections 81-1174 to 81-1177 for state employees and paid from funds appropriated by the Legislature to the office of the State Board of Education.~~

Sec. 185. Section 79-426.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.04.~~ The state committee shall organize by electing a chairperson and vice-chairperson from its appointive members, a chairman and a vice-chairman. The Commissioner of Education shall be secretary of the

state committee. Meetings of the state committee shall be held upon the call of the chairman chairperson or any three of the members thereof. A majority of the state committee shall constitute a quorum.

Sec. 186. Section 79-426.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.05.~~ There A county committee for the reorganization of school districts is hereby established in each county in the state, a committee for the reorganization of school districts to be known as the county committee. Each county committee shall be composed of not less than seven nor more than twelve members. The county committee of the county in which the schoolhouse or the administrative office of a joint school district lying in two or more counties is located shall be designated to have within its jurisdiction the territory of such joint school district for the purpose of organizing school districts.

All of the members of the school boards and boards of education within the county and joint school districts under the jurisdiction of a county committee shall, at a meeting called for such purpose by the county superintendent of schools within one hundred twenty days from July 9, 1988, and each four years thereafter, determine by a majority vote of those present the number of members of the county committee within the limits prescribed in this section, except that no more than six members of the board of education of a Class III school district shall be entitled to vote at the meeting. ~~One member of the county committee shall be the~~ The county superintendent of schools, who shall serve as a nonvoting member of the county committee, and each class of school district within the county shall have one member on the county committee. The remaining members shall be elected from any Class I school district not associated with a Class VI school district and any Class II, III, IV, V, or VI school district within the county so that the total county committee membership is as nearly as possible in the proportion that the total school census for children from birth through twenty years of age in each class of school district within the county bears to the total school census for children from birth through twenty years of age in all school districts within the county. The school boards or boards of education representing each class of school district within the county and joint school districts under the jurisdiction of such county shall vote as separate units to select their representatives for the county committee. The members so elected shall serve four-year terms.

No member of a county committee shall continue to serve ~~thereon on~~ the county committee if he or she ceases to be a resident of the county, the joint school district under the jurisdiction of that county committee, or the school district from which he or she was elected. At the expiration of their terms, successors to members of the county committee shall be elected for terms of four years in the same manner as the initial election. A vacancy in the membership of the county committee shall be filled for the unexpired term by a representative of the same class of school district as the previous member and shall be chosen by the remaining members of the county committee. Members of the county committee shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties, with mileage reimbursements to be computed at the rate provided in section 23-1112 for county officers and employees. ~~The~~ the reimbursement to ~~shall~~ be allowed and paid from funds appropriated by the county board.

The county committee may employ professional and clerical help, and the cost of these services shall be paid from funds appropriated by the county board. ~~It shall be the duty of the~~ The county superintendents ~~superintendent~~ of schools of each of the several counties to county shall submit to their respective county boards the county board a recommended sum to be appropriated for school district reorganization purposes.

Sec. 187. Section 79-426.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.06.~~ The county committee shall organize by annually electing ~~annually a chairperson and vice-chairperson~~ from its elected members, ~~a chairman and vice-chairman.~~ The county superintendent of schools shall be secretary of the committee. Meetings of the county committee shall be held upon the call of the chairman chairperson or any three of the members thereof. A majority of the county committee shall constitute a quorum.

Sec. 188. Section 79-426.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.07.~~ It shall be the duty of the ~~The~~ state committee to shall initiate, set up, and recommend to the county committee plans and procedures for the reorganization of school districts within the various counties, ~~and to~~ and shall furnish advice and assistance in connection ~~therewith~~ with such plans and procedures.

Sec. 189. Section 79-426.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.08.~~ (1) Each county committee shall receive and consider all plans and procedures submitted to it by the state committee. The plans may include plans for the affiliation of school districts. The county committee shall prepare and submit to the state committee, for its approval or disapproval, a plan of reorganization of school districts for the county. Such plan of reorganization shall be submitted to the state committee prior to January 1, 1990.

(2) When a proposed plan of reorganization of school districts for the county or part thereof has been tentatively agreed upon by a county committee, a map of the proposed district or districts shall be prepared showing the boundaries thereof and a statement of the description of the boundaries of such proposed district or districts and details of the plan. Such map and statement shall be placed on file with the county superintendent together with a statement prepared by the committee setting forth the provisions of ~~section 79-426.11~~ 192 of this act and other facts considered pertinent by ~~such the county~~ committee for the information of the public as to the reasons for and benefits ~~to be had from~~ of such proposal.

(3) The county superintendent shall give notice of the filing of such map and statement by publication of such fact in a newspaper of general circulation in the area.

Sec. 190. Section 79-426.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.09.~~ (1) In the preparation of a plan for the reorganization of school districts, the county committee shall give due consideration to (a) ~~to~~ the educational needs of local communities, (b) ~~to~~ economies in transportation and administration costs, (c) ~~to~~ the future use of existing satisfactory school buildings, sites, and play fields, (d) ~~to~~ the convenience and welfare of pupils, (e) ~~to~~ a reduction in the disparities in per pupil valuation among school districts, (f) ~~to~~ the equalization of the educational opportunity of pupils, and (g) ~~to~~ any other matters which, in its judgment, are of importance. The county committee, in preparation of a plan for reorganization, shall take into consideration any advice or suggestions offered by the state committee.

(2) A plan for the reorganization of school districts, involving a district under the jurisdiction of another county committee, shall be prepared and approved by the joint action of a special committee composed of three members appointed by the ~~chairman~~ chairperson with the approval of the county committee of each county involved. ~~The~~ the which plan shall, for purposes of submission to the state committee and at the special election provided for in subsection (1) of section ~~79-426.15~~ 196 of this act, be the responsibility of the county which has the largest number of pupils residing in the proposed joint district. Meetings of the special committee shall be held on call of the members from the county having the largest number of pupils residing in the proposed joint district, who shall notify the secretaries of the committees in the other interested counties by either certified or registered mail at least ten days in advance of each meeting, with such secretary being responsible for notifying the special committee members in such county. Notices for subsequent meetings need not be given when a majority of the special committee has agreed to such meetings. Business shall be conducted by those present and shall be binding regardless of attendance.

Sec. 191. Section 79-426.10, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.10.~~ Before any plan of reorganization is completed by the county committee, or by a special committee, ~~it established under section 190 of this act, the county committee or special committee~~ shall hold one or more public hearings. At such hearings, it shall hear any and all persons interested with respect to (1) the merits of proposed reorganization plans, (2) the value and amount of all school property of whatever nature involved in the proposed action, (3) the amount of outstanding indebtedness of each district and proposed disposition thereof, and (4) the equitable adjustment of all property, debts, and liabilities among the districts involved. The county committee or special committee shall keep a record of all hearings in the formulation of plans for the reorganization of school districts. Notice of such public hearings of the county committee or special committee shall be given by publication in a legal newspaper of general circulation in the county at least ten days prior to such hearing.

Sec. 192. Section 79-426.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.11.~~ After one or more public hearing or hearings have been held, the county committee or the special committee created under section 190

of this act may prepare and approve a plan or plans of reorganization of any or all school districts within the county and under its jurisdiction. Such plan shall contain:

(1) A description of the proposed boundaries of the reorganized districts;

(2) a summary of the reasons for each proposed change, realignment, or adjustment of the boundaries. If such plan provides ~~PROVIDED, that if such plan shall provide~~ for the creation of a new Class VI district, it shall designate whether such district shall include high school grades only or be known as a Class VI junior-senior high school district as described in section 79-1109 160 of this act;

(3) a summary of the terms on which reorganization is to be made between the reorganized districts. Such ~~and~~ such terms shall include a provision for initial school board districts or wards within the proposed district, ~~such which~~ proposed initial school board districts or wards ~~to shall~~ be determined by the county committee taking into consideration population and valuation, and a determination of the ~~term~~ terms of the board members first appointed to membership on the board of the newly reorganized district;

(4) a statement of the findings with respect to the location of schools, the utilization of existing buildings, the construction of new buildings, and the transportation requirements under the proposed plan of reorganization. ~~The~~ ~~PROVIDED, that~~ the plan may contain provisions for the holding of school within existing buildings in the newly reorganized district and that a school constituted under the provisions of this section shall be maintained from the date of reorganization unless the legal voters served by the school vote by a majority vote for discontinuance of the school;

(5) a map showing the boundaries of established school districts and the boundaries proposed under any plan or plans of reorganization; and

(6) ~~such~~ Such other matters as the county committee shall ~~determine~~ ~~determines~~ proper to be included.

Sec. 193. Section 79-426.12, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-12-~~ The plan or plans of reorganization prepared and approved by any special committee created under section 190 of this act shall be forwarded to the county committee of the county which has the largest number of pupils residing in the proposed joint district, for review and approval or disapproval. ~~Said~~ The plan shall be forwarded to the state committee for review when authorized by a majority vote of the members of the county committee and so recorded in the official minutes of the committee. Such plan or plans shall be certified as authorized by a majority vote of the county committee and signed by the ~~chairmen~~ chairperson and the secretary of the county committee. Territory included in such plan adopted by the committee shall remain a part of the plan until an election is held, as provided in section 79-426-15 196 of this act, except as changes may be recommended by the state committee as provided in this section. The state committee shall, within thirty days ~~from after~~ the receipt of such plan or plans, consider the ~~same~~ plan or plans and shall notify the county committee whether or not it has any changes to recommend in such plan or plans. Such recommendations shall be advisory only. If the state committee shall ~~desire~~ desires to suggest any changes or amendments in such proposed plan, the state committee's changes or amendments together with the proposed plan shall be returned to the committee and conferences had between such committee and the state committee or its representative to the end that a mutually satisfactory plan may be perfected, if reasonably possible. Maps and a statement showing the revised plan arrived at after conference with the state committee or its representative shall be filed with the county superintendent, and hearings shall be held thereon and notice thereof given as provided in section ~~79-426-10~~ 191 of this act.

Sec. 194. Section 79-426.14, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-14-~~ If recommendations for changes are made by the state committee as provided in section 193 of this act, the county committee shall consider such recommendations, and shall then determine whether or not to accept the recommendations of the state committee. The county committee may hold one or more additional public hearings in connection with the determination of the acceptance of the recommendations of the state committee. The county committee shall announce its decision within thirty days after it receives such recommendations from the state committee. The proposed plan, as finally adopted by the county committee, shall be submitted at a special election called and held as provided in section 79-426-15 196 of this act.

Sec. 195. Section 79-426.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-13-~~ When such plan, a plan of reorganization or any part thereof, has been approved by the county committee and the state committee, it shall be designated as the final approved plan and shall be submitted to a vote as provided in section ~~79-426-15~~ 196 of this act.

Sec. 196. Section 79-426.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-15-~~ (1) Not less than thirty nor more than sixty days after the designation of the plan as final approved plan a final approved plan under section 195 of this act, the proposition of the adoption or rejection of the proposed plan of reorganization shall be submitted at a special election to all the electors of districts within the county whose boundaries are in any manner changed by the plan of reorganization, including the boundaries of Class VI school districts if such plan includes a Class I school district which is entirely within a Class VI school district.

(2) Notice of the special election provided for by subsection (1) of this section shall be given by the county clerk or election commissioner and shall be published in a legal newspaper of general circulation in the county at least ten days prior to the election. The election notice shall (a) state that the election has been called for the purpose of affording the electors an opportunity to approve or reject the plan of reorganization, (b) contain a description of the boundaries of the proposed district, and (c) contain a statement of the terms of the adjustment of property, debts, and liabilities applicable thereto.

(3) All ballots shall be prepared and the special election referred to in subsection ~~(1)~~ of this section shall be held and conducted by the county clerk or election commissioner, and the expense of such election ~~is to~~ shall be paid by the county board or boards, if more than one county is involved as provided in subsection (4) of this section. The county clerk or election commissioner shall use the duly appointed election board or appoint two judges and two clerks who shall be qualified electors of the territory of the proposed school district. The election shall be held at a place or places within the proposed district which ~~shall have been~~ determined by the county clerk or election commissioner to be convenient for the voters.

(4) If the proposed plan of reorganization involves a district under the jurisdiction of another county committee, the county clerk or election commissioner of the county which has the largest number of pupils residing in the proposed joint district shall give the notice required by subsection (2) of this section in a newspaper of general circulation in the territory of the proposed district and prepare the ballots, and such election shall be held and conducted by the county clerk or election commissioner of each county involved in the proposed reorganization in accordance with the Election Act. Each county board shall bear a share of the total election expense in the same proportion that the number of electors residing in the proposed district in one county stands to the whole number of electors in the proposed district.

(5) In any election held as provided in this section, all districts of like class shall vote as a unit, except that Class I school districts within the boundaries of which are located an incorporated village or city shall constitute a separate voting unit and Class I school districts which do not have within their boundaries an incorporated village or city shall constitute a separate voting unit.

(6) Approval of the plan at the special election shall require a majority of all electors voting within each voting unit included in the proposed plan.

Sec. 197. Section 79-426.16, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-16-~~ If the majority vote in each voting unit at ~~said the~~ election ~~shall not be described in section 196 of this act is not~~ in favor of the plan of reorganization, the county committee shall continue in its efforts in an attempt to prepare a revised plan which might be acceptable. If a revised plan is approved by the county committee, it shall be submitted for the approval of the state committee, and if approved by ~~such the state~~ committee it shall be submitted to a vote under the procedure provided in section 196 of this act.

Sec. 198. Section 79-426.17, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-17-~~ Whenever two or more school districts are involved in a reorganization plan, the old districts shall continue to be responsible for any indebtedness incurred before the reorganization takes place unless a different arrangement is included in the plan voted upon by the people. Bonded indebtedness incurred for high school facilities prior to the adoption of any affiliation plan shall remain the obligation of the high school district unless otherwise specified in the petitions.

Sec. 199. Section 79-426.18, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.18-~~ If the plan of reorganization is adopted, the county superintendent of schools shall proceed to cause the changes, realignment, and adjustment of districts to be carried out as therein provided in the plan. The county superintendent of schools shall classify the school districts according to the law applicable to the size, location, and population of the reorganized district. He or she shall also file certificates with the county assessor, county clerk, and county treasurer showing the boundaries of the various districts under the plan of reorganization adopted.

Sec. 200. Section 79-426.19, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.19-~~ Within thirty days after the classification by the county superintendent of schools of the reorganized school districts by the county superintendent of schools, the county reorganization committee shall appoint from among the qualified electors of each new school district created the number of members necessary to constitute a school board or board of education of the class in which the new school district has been classified. A reorganized school district shall be formed and organized and shall have a governing board not later than April 1 following the last legal action, as prescribed in section ~~79-426.18~~ 199 of this act, necessary to effect the changes in boundaries as set forth in the plan of reorganization although the physical reorganization of such reorganized school district may not take effect until June 1. The first board shall be appointed on an at-large basis, and all boards shall be elected at large until such time as school districts are established as provided in section 32-554. If the new school district involves territory lying in two or more counties, the school board or board of education shall be appointed by the joint action of the county reorganization committees involved.

In appointing the first board of a Class II school district, the members shall be appointed so that the terms of three members shall expire on the first Tuesday in June of the first even-numbered year and the terms of the three remaining members shall expire on the first Tuesday in June of the second even-numbered year following their appointment. At the statewide primary election in the first even-numbered year after the reorganization, ~~there shall be elected in each Class II school district three board members in each Class II school district shall be elected~~ to terms of four years, and thereafter all candidates shall be elected to terms of four years. Each member's term shall begin on the first Tuesday in June following his or her election.

In appointing the first board of a Class III school district with a six-member board serving terms of four years, the terms of three members shall expire on the first Thursday after the first Tuesday in January after the first even-numbered year following their appointment and the terms of the three remaining members shall expire on the first Thursday after the first Tuesday in January after the second even-numbered year following their appointment.

In appointing the first board of a Class III school district with a nine-member board serving terms of four years, the terms of four members shall expire on the first Thursday after the first Tuesday in January after the first even-numbered year following their appointment and the terms of five members shall expire on the first Thursday after the first Tuesday in January after the second even-numbered year following their appointment. Thereafter all Class III school boards ~~boards of education~~ shall be elected to terms of four years.

The school board or board of education so appointed shall proceed at once to organize in the manner prescribed by law.

#### ARTICLE 4

#### PART (e) - DISSOLUTION OF CLASS I & CLASS II SCHOOL DISTRICTS

Sec. 201. Section 79-426.23, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426.23-~~ A proposal to dissolve a Class I or II school district, except a Class I school district which is partly or wholly within a Class VI school district, and attach it to one or more existing Class II, III, IV, or V school districts may be initiated by filing a petition or petitions signed by at least twenty-five percent of the legal voters of the district with the county superintendent of the county in which the greater part of any such district is located, together with an affidavit listing all legal voters of the district. Upon determination by ~~him~~ the county superintendent that the signatures are sufficient, which determination shall not be subject to review

at the hearing held under the provisions of section ~~79-426-26~~ 204 of this act, the county superintendent shall transmit the petition to the county committee for the reorganization of school districts which has jurisdiction over the district. The petition shall contain a plan of the proposed reorganization, an effective date, and a statement whether any existing bonded indebtedness shall remain on the property of the district which incurred it or be assumed by the enlarged district. The petition may also contain provisions for the holding of school within existing buildings in the proposed reorganized district, and when so provided, the holding of school within such buildings shall be maintained from the date of reorganization unless either the legal voters served by the school or the school board or board of education of the reorganized district votes by a majority vote for discontinuance of the school. ~~In 7 PROVIDED,~~ in case of conflicting votes between the legal voters and the school board or board of education on such issue, the decision of the legal voters shall prevail. A signing petitioner shall not be permitted to withdraw his ~~name therefrom or her name from the petition~~ after the petition has been filed. The school board or board of education of each Class II, III, IV, or V district to which the merger is proposed shall also submit to the county committee a statement to the effect that a majority of the board members approve the proposal contained in the petition. The county committee ~~for the reorganization of school districts~~ shall, within forty days after the receipt of the petition, review and approve or disapprove such proposal and submit it to the State Committee for the Reorganization of School Districts.

Sec. 202. Section 79-426.24, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-24.~~ The State Committee for the Reorganization of School Districts shall, within forty days after receipt of the proposal as provided in section ~~79-426-23~~ 201 of this act, review and approve or disapprove the proposal and return to the county committee ~~for the reorganization of school districts~~ a statement of its decision, including any recommendations it deems advisable. The county committee shall, within fifteen days after receipt of the statement, consider the action and recommendations, if any, of the state committee and give final approval or disapproval to the proposal. The county committee shall, within ten days after its action on the proposal, file the petition with the county superintendent and at the same time submit a statement setting forth action taken by the state committee and the county committee. If both the county committee and the state committee disapprove the proposal, no further action shall be taken in regard to it and it shall not be resubmitted in substance for a period of six months from the date it was filed with the county superintendent.

Sec. 203. Section 79-426.25, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-25.~~ If the proposal provided for in section ~~79-426-23~~ 201 of this act has been approved by the county committee for the reorganization of school districts or the State Committee for the Reorganization of School Districts, or both, the county superintendent shall, within ten days after receipt of the petition from the county committee, ~~so~~ notify the school board of the Class I or II district. ~~The and the~~ school board shall, within fifteen days after the notification, set a date for a special election for the purpose of submitting the proposal to the legal voters of the district. At least twenty days' notice of such election shall be given by publication twice in a newspaper of general circulation in the district, the latest publication to be not more than one week before the election. If there is no such newspaper, notice shall be given by posting it on the door of the schoolhouse and at least four other public places throughout the district. The proposal shall not be submitted to a special election more than once in any calendar year. Legal voters may cast their ballots, written or printed, between the hours of 12 noon and 8 p.m. on the date of such election. The county clerk or election commissioner of the county which has the largest number of pupils residing in the district shall conduct such special election in accordance with the Election Act and shall record the names and residence of persons voting thereat at the special election. The ballots shall be canvassed as provided in section ~~79-426-15~~ 196 of this act.

Sec. 204. Section 79-426.26, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-426-26.~~ If the proposal ~~provided for in section 201 of this act~~ is approved by a majority of the legal voters of the school district voting on the matter, the secretary of the school board shall, within five days, ~~so~~ certify ~~the approval~~ to the county superintendent. The county superintendent shall immediately notify the secretary of each Class II, III, IV, or V district affected of the action taken by the Class I or II district, and such secretary shall, within ten days, certify to the county superintendent that

the school board or board of education of the Class II, III, IV, or V district has, by a majority vote, officially approved the proposal as provided in section 79-426-23 201 of this act. The county superintendent shall, within fifteen days, give notice of a public hearing in regard to the proposal. Notice shall be by publication in a newspaper of general circulation in the area affected, and shall be given ten days before the date of the hearing. After the hearing, upon determination that all of the requirements of the provisions of sections 79-426-23 to 79-426-26 201 to 204 of this act have been complied with, and within ten days after the public hearing, the county superintendent shall issue an order effecting the changes in school district boundaries in accordance with the proposal provided in section 79-426-23; He 201 of this act. He or she shall also file certificates with the county assessor, county clerk, and county treasurer showing the changes. If the Class II, III, IV, or V district is in a county other than the one having jurisdiction over the Class I or II district, the public hearing shall be held and conducted by the county superintendents involved and they shall jointly issue the order for changes in school district boundaries. An appeal may be taken from such order within twenty days ~~of~~ after the rendition thereof ~~of the order~~ in the same manner as appeals are taken from the action of the county board in allowing or disallowing claims against the county. Such appeal shall be filed in the district court for the county whose county superintendent of schools has jurisdiction of the Class I or II district. When more than one county superintendent has jurisdiction of the Class I or II district, the appeal may be filed in the district court for either of the counties.

## ARTICLE 4

## PART (f) - FREEHOLDERS' PETITIONS

Sec. 205. Section 79-403, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-403-~~ (1) Any freeholder or freeholders, person in possession or constructive possession as vendee pursuant to a contract of sale of the fee, holder of a school land lease under section 72-232, or entrant upon government land who has not yet received a patent therefor may file a petition with a board consisting of the county superintendent, county clerk, and county treasurer, asking to have any tract of land described in the petition set off from a Class I, II, III, or VI district in which it is situated and attached to some other district in the petitioner's county of residence or a county adjoining thereto the petitioner's county of residence for the purpose of providing a better education for children of school age residing on the land to be transferred. In order for the petitioner to prove that the petition is in the best educational interests of such children, ~~he, she, or they the petitioner~~ shall show a difference in the state accreditation of the schools involved.

Petitions requesting transfers of property across county lines shall be addressed jointly to the county superintendents of the counties concerned, and the petitions shall be acted upon by the county superintendents, county clerks, and county treasurers of the counties involved as one board, with the county superintendent of the county from which the land is sought to be transferred acting as chairperson of the board.

The petition shall state the reasons for the proposed change and shall show with reference to the land of each petitioner: (a) That (i) the land described in the petition is either owned by the petitioner or petitioners or that he, she, or they hold a school land lease under section 72-232, are in possession or constructive possession as vendee under a contract of sale of the fee simple interest, or have made an entry on government land but have not yet received a patent therefor and (ii) such tract of land includes all contiguous land owned or controlled by each petitioner; (b) that the district to which the land is to be attached is located in the petitioner's county of residence or a county adjoining thereto an adjoining county; (c) that the land proposed to be attached has children of school age who have resided on such land with their parents or guardians for not less than forty days prior to filing the petition; and (d) that such petition is approved by a majority of members of the school board or board of education of the district to which such land is sought to be attached.

Notice of the filing of the petition and of the hearing on such petition before the board shall be given at least ten days prior to the date of such hearing by one publication in a legal newspaper of general circulation in each district, and such notice shall designate the territory to be transferred. The board may, after a public hearing on the petition, thereupon change the boundaries of the districts so as to set off the land described in the petition and attach it to such adjoining district as is called for in the

petition whenever the board determines that the elements of the petition have been proven, including that it is in the best educational interest of the children of school age residing on such land to do so. ~~Notice of the filing of the petition and hearing on such petition before the board shall be given at least ten days prior to the date of such hearing by one publication in a legal newspaper of general circulation in each district; and such notice shall designate the territory to be transferred.~~ When the tract of land attached is not contiguous to the district receiving such land, the transportation allowance provisions of section 79-490 372 of this act shall not exceed beyond the boundary line of the receiving district that existed prior to the attachment of such land.

Appeals may be taken from the action of the board to the district court of the county in which the land is located within twenty days after entry of such action on the records of the board. Transfer of property may be made from an accredited district to an accredited Class VI district which is served by a nonaccredited Class I district if any student residing on the land to be transferred attends high school.

(2) Any freeholder or freeholders, person in possession or constructive possession as vendee pursuant to a contract of sale of the fee, holder of a school land lease under section 72-232, or entrant upon government land who has not yet received a patent therefor may file a petition with a board consisting of the county superintendent, county clerk, and county treasurer, asking to have any tract or tracts of land described in the petition set off from a nonaccredited Class I, II, III, or VI district in which it is situated and attached to an accredited district in the county of the residence of the petitioner or an adjoining county thereto, and when such petition is for transfer of land from a Class I district which is part of a Class VI district, the petitioner shall be allowed to have such land attached to an adjoining accredited Class II, III, IV, or V district.

The petition shall state the reasons for the proposed change and shall show with reference to the land of each petitioner: (a) That (i) the land described in the petition is either owned by the petitioner or petitioners or that he, she, or they hold a school land lease under section 72-232, are in possession or constructive possession as vendee under a contract of sale of the fee simple interest, or have made an entry on government land but have not yet received a patent therefor and (ii) such tract of land includes all such contiguous land owned or controlled by each petitioner; (b) that the land proposed to be attached has children of school age who have resided on such land with their parents or guardians for not less than forty days prior to filing the petition; (c) that the land described in the petition is located in a Class I, II, III, or VI school district as provided in this subsection and is to be attached to an accredited school district in the petitioner's county of the residence of the petitioner or an adjoining county; ~~thereto~~; and (d) that such petition is approved by a majority of the members of the school board or board of education of the district to which such land is sought to be attached.

If the land sought to be transferred pursuant to this subsection is to be set off from a Class I, II, III, or VI district and attached to an accredited Class VI district, the land shall not be set off and attached to such Class VI district unless the petition states that the land shall be attached to a Class I district located within the boundaries of such Class VI district, and a majority of the members of the school board or board of education of both such Class VI and Class I districts approve such petition. ~~For purposes of this section, children of school age shall mean children who are attending public school or children who are not attending a public school in such district but who will attend a public school in the district to which the land will be attached. Failure of such children to attend a public school in the district to which the land is attached shall invalidate the transfer from the date of approval.~~

The petition shall be verified by the oath of each petitioner. Notice of the filing of the petition and of the hearing on such petition before the board shall be given at least ten days prior to the date of such hearing by one publication in a legal newspaper of general circulation in each district and by posting a notice on the outer door of the schoolhouse in each district affected thereby, and such notice shall designate the territory to be transferred. The board shall, after a public hearing on the petition and a determination that all requirements of this subsection have been complied with, change the boundaries of the districts so as to set off the land described in the petition and attach it to such adjoining district pursuant to the petition. ~~Notice of the filing of the petition and of the hearing for such petition before the board shall be given at least ten days prior to the date of such hearing by one publication in a legal newspaper of general~~

circulation in each district and by posting a notice on the outer door of the schoolhouse in each district affected thereby, and such notice shall designate the territory to be transferred.

Petitions requesting transfers of property across county lines shall be addressed jointly to the county superintendents of the counties concerned, and the petitions shall be acted upon by the county superintendents, county clerks, and county treasurers of the counties involved as one board, with the county superintendent of the county from which the land is sought to be transferred acting as chairperson of the board.

When the tract of land attached is not contiguous to the district receiving such land, the transportation allowance provisions of section 79-499 372 of this act shall not extend beyond the boundary line of the receiving district that existed prior to the attachment of such tract of land.

For purposes of this section, children of school age means children who are attending public school or children who are not attending a public school in such district but who will attend a public school in the district to which the land will be attached. Failure of such children to attend a public school in the district to which the land is attached shall invalidate the transfer from the date of approval.

Appeals may be taken from the action of such board, or, when such board fails to agree, to the district court of the county in which the land is located within twenty days after entry of such action on the records of the board by the county clerk of the county in which the land is located or within twenty days after March 15 if the board fails to act upon such petition as provided in section 79-403-05 206 of this act, in the same manner as appeals are now taken from the action of the county board in the allowance or disallowance of claims against the county.

Sec. 206. Section 79-403.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-403-01. Any transfer of land under the provisions of section 79-403 section 205 of this act for which the petition was filed prior to January 1, 1970, shall be effective upon the date the petition is approved. For those petitions any petition filed on or after January 1, 1970, they the transfer of land shall be effective on June 1 of the year in which the transfer is approved, except as hereinafter set forth; PROVIDED, that the petition shall be filed on or before February 15 for the transfer of land to be effective on June 1 of the same school year. The board shall hear all petitions prior to March 10 of the year in which the transfer is to be effective, and shall act upon such petitions on or before March 15 of each such year. All taxes on the land involved in transfers on petitions must be paid at the time of transfer. Any land transferred pursuant to section 79-403 205 of this act shall be subject to the existing bonded indebtedness of the district from which transferred at the time of transfer as fully as though the land had not been transferred.

Sec. 207. (1) During the second consecutive year an existing Class II or III school district has less than twenty-five pupils in grades nine through twelve pursuant to subsection (2) of section 248 of this act and if the high school is within fifteen miles on a reasonably improved highway of another high school, any freeholder or freeholders, person in possession or constructive possession as vendee pursuant to a contract of sale of the fee, holder of a school land lease under section 72-232, or entrant upon government land who has not yet received a patent therefor may file a petition with a board consisting of the county superintendent, county clerk, and county treasurer, asking to have any tract or tracts of land described in the petition set off from a Class II or III school district as described in such subsection in which it is situated and attached to an accredited district in the same county or an adjoining county.

(2) The petition shall state the reasons for the proposed change and shall show with reference to the land of each petitioner: (a) That (i) the land described in the petition is either owned by the petitioner or petitioners or that he, she, or they hold a school land lease under section 72-232, are in possession or constructive possession as vendee under a contract of sale of the fee simple interest, or have made an entry on government land but have not yet received a patent therefor and (ii) such tract of land includes all such contiguous land owned or controlled by each petitioner; (b) that the land described in the petition is located in a Class II or III district as described in subsection (2) of section 248 of this act and is to be attached to an accredited school district in the same county or an adjoining county; and (c) that such petition is approved by a majority of the members of the school board or board of education of the district to which such land is sought to be attached.

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

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

(4) Petitions requesting transfers of property across county lines shall be addressed jointly to the county superintendents of the counties concerned, and the petitions shall be acted upon by the county superintendents, county clerks, and county treasurers of the counties involved as one board, with the county superintendent of the county from which the land is sought to be transferred acting as chairperson of the board.

(5) When the tract of land attached is not contiguous to the district receiving such land, the transportation allowance provisions of section 372 of this act shall not extend beyond the boundary line of the receiving district that existed prior to the attachment of such tract of land.

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

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

Sec. 208. Section 79-1108, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1108-~~ No transfer of property from an accredited school district to a nonaccredited school district of any class shall be permitted, except that as provided in section ~~79-403~~ 205 of this act transfers may be made from an accredited district to an accredited Class VI district which is served by a nonaccredited Class I district if any student residing in the land to be transferred pursuant to the petition attends high school. This provision shall apply to all transfers made prior as well as subsequent to July 17, 1982.

#### ARTICLE 4

#### PART (g) - SPECIAL PROPERTY TRANSFERS AND DISSOLUTION & ANNEXATION OF SCHOOL DISTRICTS

Sec. 209. Section 79-403.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-403-02-~~ Notwithstanding other provisions of Chapter 79 concerning the transfer of territory from one school district to another and the reorganization of school districts, territory may be transferred to a Class I district when the following conditions are met:

(1) The receiving district contains at least twenty-five hundred acres and ~~located thereon~~ is a nonprofit facility licensed for the care and education of children is located thereon;

(2) There are no children of school age in the territory to be transferred to the receiving district and the territory is owned by the owners of the facility referred to in subdivision (1) of this section; and

(3) As a part of the proposal for transfer, the school board of the receiving district agrees to provide elementary education either in its own facilities or by contracting with another district. No ~~PROVIDED,~~ that no county shall pay tuition for any nonresident who is a ward of the court or state.

Sec. 210. Section 79-403.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-403-03-~~ A proposal for transfer of territory pursuant to section ~~79-403-02~~ 209 of this act shall be initiated by the board of the receiving district. Such proposal shall be filed with the county superintendent of the county in which the territory is located. The county superintendent shall call a joint meeting of the boards of all districts affected by the proposal. The county superintendent shall make such investigation as he or she deems necessary to determine whether the conditions of such section ~~79-403-02~~ have been met. If the county superintendent, and if he determines that they have

been he such conditions have been met, he or she shall enter an order, at the joint meeting, for the transfer of such territory.

Sec. 211. Section 79-406, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-406-~~ (1) Where streams of water or other natural or artificial barriers make it impracticable for children to attend school in their own school district, the county superintendent shall, when requested by parents or guardians of the children or the school board or board of education of the school district, attach territory to adjoining school districts as he or she may deem necessary for the purpose of giving the children school privileges, if he or she the county superintendent determines after notice and hearing as provided in section 79-403 205 of this act that the action would enable the children to attend school by traveling less than in their school district or create more practical school district boundaries. ~~attach to adjoining school districts the territory as he or she may deem necessary for the purpose of giving the children school privileges.~~ For purposes of this subsection only, public roads or highways which are classified as collector, local, or minimum maintenance rural highways under section 39-2103 and which are regularly impassable may constitute a natural or an artificial barrier.

(2) If the boundary line between two or more school districts runs through any platted lot or any unplatted lot of five acres or less so that the parcel of real estate is located in two or more school districts, the property owner may petition to have all of the lot or parcel included in the school district in which the residence is located, if a residence is located on the lot or parcel, or in the school district in which a majority of the lot or parcel is located, if no residence is located on the lot or parcel. The petition shall be directed to the county superintendent and shall state (a) the legal description of the lot or parcel involved, (b) that the lot or parcel lies within two or more school districts which shall be identified, (c) that all persons with any legal interest in the property and all occupants of the property have joined in the petition, (d) the school district to which the land should be transferred, and (e) that no prior transfer pursuant to this section has been made.

(3) Within fourteen days after the receipt of a petition pursuant to this section, the county superintendent shall notify the school board or board of education of each affected school district. Each affected school district shall have thirty days after the receipt of the notice to contest the statements in the petition.

If the county superintendent finds each of the statements in the petition to be true and if no objections to a petition are filed with the county superintendent or the county superintendent finds the objections to be unfounded, he or she shall transfer the balance of the lot or parcel into the school district specified in the petition subject to the conditions of this section. The transfer shall be effective on June 1 of the year in which the transfer is approved, except that when a petition is filed after February 15 the transfer shall not be effective until June 1 of the following year. Within fourteen days after the receipt of a petition pursuant to this section, the county superintendent shall notify the school board or board of education of each affected school district. Each affected school district shall have thirty days after the receipt of the notice to contest the statements in the petition. If no objections to a petition are filed with the county superintendent or the county superintendent finds the objections to be unfounded, the property shall be transferred.

(4) On or before June 1 of each year, the county superintendent shall notify the county clerk, county assessor, county treasurer, and affected school districts of the effective date of any transfers made pursuant to this section in the previous twelve months. Appeals may be taken from the action of the county superintendent to the district court of the county in which the lot or parcel is located in the same manner as appeals are taken from action of the county board in the allowance or disallowance of claims against the county.

Sec. 212. Section 79-407, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-407-~~ Where When (1)(a) a stream of water or other natural or artificial barriers make it necessary for a child to travel more than five miles to attend school, either in his or her district or in any adjoining district in the same county, or when or (b) a stream of water or other natural or artificial barriers separate a part of a school district from the major part of that school district, and where (2) attaching the territory, which is cut off by the stream of water or other natural or artificial barriers, to a district in an adjoining county, will enable such child to attend school by traveling less than in his or her district, or will create more practical

district boundaries, a parent or guardian of such child, or the school board or board of education of the district, may file a request, with the Commissioner of Education, that such territory be attached, for school purposes, to the district in the adjoining county having a nearer school.

Upon such request being filed, the commissioner shall convene a board, consisting of such the commissioner, the county superintendent of schools of the county where in which the applicant resides, and the county superintendent of schools of the county to which the applicant desires to have such territory attached, to pass upon the request. The board shall be convened, at the office of the county superintendent of schools of the county where in which the applicant resides, within sixty days after the request is filed, at a time to be fixed by the commissioner, who shall notify the other members of the board, the applicant, and the members of the school board of each school district involved, by registered or certified mail, of the time and place of hearing, at least ten days prior thereto. A notice of the request for transfer, and the time and place of hearing thereon, shall also be posted in three public places, one of which places shall be upon the outer door of the schoolhouse, if there be is one, in each district affected, at least ten days prior to the hearing. At the hearing, the board, if a majority thereof so decides, by majority decision may order the territory, which is cut off by such stream of water or other natural or artificial barriers, to be attached to the school district in the adjoining county, for school purposes only. Taxes, on the territory so attached, shall be levied and collected in the manner provided by sections 79-478 to 79-481 28 to 31 of this act, covering transfer of pupils, for school purposes, from a school district located in one county to a school district located in another county.

Sec. 213. Section 79-408, Reissue Revised Statutes of Nebraska, is amended to read:

79-408. When a district is for any reason reduced in size so that the part remaining shall contain contains less in area than two full sections of land and fewer than twenty persons of school age, the county superintendent shall attach such remainder or portion to an adjoining district or districts, if this can be done so that no pupil, in such remainder or portion, shall be is more than two and one-half miles from the nearest schoolhouse in the district in which such pupil is so placed.

Sec. 214. Section 79-408.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-408-01. When a river has changed or changes its channel so that the original boundaries of the school district have been changed and the district is less in area than four full sections of land, exclusive of accreted lands, and the school district has fewer than twenty persons of school age, the county superintendent shall attach such remainder or portion to an adjoining district or districts.

Sec. 215. Section 79-408.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-408-02. When a district is reduced in size by the purchase or appropriation of land by the United States for any defense, flood control, irrigation, or war project so that such remaining part (1) contains less than four sections of land and fewer than twenty persons or (2) has a taxable value that places it in the lower twelve percent of the school districts of the same class in the county, it shall be the duty of the county superintendent shall to attach such remainder to an adjoining district or districts.

Sec. 216. Section 79-408.03, Reissue Revised Statutes of Nebraska, is amended to read:

79-408-03. Whenever (1) a school district suffers a reduction in the taxable valuation of the real property within the district by reason of the purchase or appropriation by the United States or any instrumentality of the United States of land therein in the district for any defense, flood control, irrigation, or war project, (2) the number of children who are five through twenty years of age residing in the district are increased increases by reason of the use by the United States of the land so purchased or appropriated for such purposes, and (3) such increase in the number of pupils who will be eligible to attend school in the district does or will require a levy of taxes for general school purposes in excess of the average levy for general school purposes of school districts of the same class in the county, then the county superintendent shall change the boundaries of the existing district as to exclude therefrom all land purchased and appropriated by the United States and all land which by reason of its use or ownership is exempt from state taxation under the United States Constitution and the statutes of the United States. When the United States, by the appropriate officer, does not accept or has not accepted exclusive jurisdiction over land so excluded, then the county superintendent shall form a new school district embracing land

thus excluded.

Sec. 217. Section 79-533, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-533.~~ (1) Whenever a city of the second class, a village, or a ward thereof of a city of the second class or village is consolidated according to law with a city of the primary or class or a city of the metropolitan class, the territory so consolidated with the city of the primary or metropolitan class shall, ipso facto, become annexed to and merged into the school district of such city of the primary class or metropolitan class. All and become a part thereof and all school property therein located in the territory annexed shall become the property of such district, and thereupon all laws, rules, and regulations governing the school district and schools of such city of the primary or class or metropolitan class shall apply to the district and schools within the territory thus annexed to it. The school district into which the others in whole or in part are merged shall succeed to all the property, contracts, and obligations of each and all of the school districts so merged into it, in whole or in part, and shall assume all of their valid contracts and obligations.

(2) If one or more wards, but less than all wards, of a city of the second class or of a village become consolidated with such city of the primary class or metropolitan class, the school district into which such territory is merged shall assume such portion of all valid contracts and obligations of the school district of which such territory before the consolidation theretofore was a part as the taxable valuation of all the property of the territory thus merged with the school district of such city of the primary or class or metropolitan class bears to the total taxable valuation of all the property within the school district from which such territory has been detached.

(3) If the school district boundaries of a school district of a city of the metropolitan class extend outside of the city, such part of the school district shall have its tax levy extended upon the county tax list, in the manner provided for in other school districts of the county, outside of the school district of such city. Such taxes shall be paid to the county treasurer at the same time that other school district taxes are paid.

Sec. 218. Section 79-534, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-534.~~ Upon such a consolidation taking effect as provided in section 217 of this act, the office and tenure of all members of boards of education and other school district officers of the district which is annexed to and merged into the primary or metropolitan city school district of the city of the primary class or city of the metropolitan class shall cease. All the officers of any city or village school district thus annexed, having any of the funds, records, books, papers, or property of any kind in their hands or under their control, shall immediately deliver the same to such officers of the district to which their district is annexed as are entitled to receive them.

Sec. 219. Section 79-603, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-603.~~ (1) No Class I school district which contracts for the instruction of all of its pupils with a Class I, II, III, IV, or V school district shall merge with another Class I school district unless such other Class I school district with which it is merging is included in the area which makes up a Class VI school district.

(2) No district shall contract for the instruction of all of its pupils with a Class II, III, IV, or V school district for more than two consecutive years. Nothing in this section shall be construed as an extension of the limitations on contracting for the instruction of the pupils of a school district contained in section 79-486.

(3) The county superintendent shall dissolve and attach to a neighboring school district or districts any school district which, for two consecutive years, contracts for the instruction of all of its pupils with a Class II, III, IV, or V school district.

(4) The dissolution of any school district pursuant to this section shall be effected in the manner prescribed in section ~~79-420~~ 247 of this act. When such dissolution would create extreme hardships on the pupils or the school district affected, the State Board of Education may, on application by the school board of the school district and the recommendation of the county superintendent of the county in which the school district is located, waive the dissolution of the school district on an annual basis.

(5) Nothing in this section shall be construed as an extension of the limitations on contracting for the instruction of the pupils of a school district contained in section 351 of this act.

Sec. 220. Section 79-604, Reissue Revised Statutes of Nebraska, is

amended to read:

~~79-604.~~ Any expenses incurred by a school district in opposing an order dissolving it under section ~~79-486 or 79-603 219 or 351 of this act~~ shall be a charge only against such district and the taxable property therein.

Sec. 221. Section 79-701, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-701.~~ ~~(1)~~ A Class II school district shall be created whenever a Class I school district determines by a majority vote of the qualified voters at an annual or special meeting to establish a high school.

The members of the school board serving when it is decided to establish a high school shall continue in office until the first Tuesday in June following the next statewide primary election. The Class II school district board shall be elected pursuant to section 32-542.

(2)(a) (1)(a) If a Class II school district, by a vote of fifty-five percent of the qualified voters voting at an annual or special meeting, decides to discontinue the high school and close the same, the school district shall thereupon become a Class I school district on the date designated by such voters. At such meeting a decision shall be made as to when the new school board shall be elected and whether the board shall consist of three members or six members. No new Class I school district shall establish a six-member board unless the school district contains a minimum of one hundred fifty children who are five through twenty years of age. The school board of the existing Class II school district shall remain in office until the effective date for the formation of the new Class I school district.

(b) If the new school board is to consist of three members, such members shall be elected at the time the electors of the vote to change from a Class II school district to a Class I school district or at any annual or special meeting held not less than thirty days prior to the effective date of the change from a Class II school district to a Class I school district. At the annual or special meeting, a treasurer shall be elected for a term of one year, a secretary for a term of two years, and a president for a term of three years, and regularly thereafter their successors shall be elected for terms of three years each. All officers so elected shall hold their offices until successors are elected and qualified. After such change becomes effective, the school district and its officers shall have the powers of and be governed by the provisions of law applicable to Class I school districts.

(c) If the new school board is to consist of six members, such members shall be elected after school district electors have voted the vote to change from a Class II school district to a Class I school district. The procedure for electing board members shall be as prescribed in section 32-541 or as prescribed in subsection (3) of section 79-661 318 of this act, except that such election may be held at any annual school meeting or at a special school meeting called for the purpose of electing school district officers.

(3) (2) No school district may change from Class I to Class II unless that school district has an enrollment of not less than one hundred pupils in grades nine through twelve. This subsection shall not apply to any school district located on an Indian reservation and substantially or totally financed by the federal government.

Sec. 222. (1) If the territory annexed by a change of boundaries of a city or village which lies within a Class III school district as provided in section 156 of this act has been part of a Class IV or Class V school district prior to such annexation, a merger of the annexed territory with the Class III school district shall become effective only if the merger is approved by a majority of the members of the board of education of the Class IV or V school district and a majority of the members of the board of education of the Class III school district within ninety days after the effective date of the annexation ordinance.

(2) Notwithstanding subsection (1) of this section, when territory which lies within a Class III school district, Class VI school district, or Class I school district which is attached to a Class VI school district or which does not lie within a Class IV or V school district is annexed by a city or village pursuant to section 156 of this act, the affected school board or board of education of the city or village school district and the affected board or boards serving the territory subject to the annexation ordinance shall meet within thirty days after the effective date of the annexation ordinance and negotiate in good faith as to which school district shall serve the annexed territory and the effective date of any transfer. During the process of negotiation, the affected boards shall consider the following criteria:

(a) The educational needs of the students in the affected school districts;

(b) The economic impact upon the affected school districts;

(c) Any common interests between the annexed or platted area and the affected school districts and the community which has zoning jurisdiction over the area; and

(d) Community educational planning.

If no agreement has been reached within ninety days after the effective date of the annexation ordinance, the territory shall transfer to the school district of the annexing city or village ten days after the expiration of such ninety-day period unless an affected school district petitions the district court within the ten-day period and obtains an order enjoining the transfer and requiring the boards of the affected school districts to continue negotiation. The court shall issue the order upon a finding that the affected board or boards have not negotiated in good faith based on one or more of the criteria listed in this subsection. The district court shall require no bond or other surety as a condition for any preliminary injunctive relief. If no agreement is reached after such order by the district court and additional negotiations, the annexed territory shall become a part of the school district of the annexing city or village.

(3) If, within the boundaries of the annexed territory, there exists a Class VI school, the school building, facilities, and land owned by the school district shall remain a part of the Class VI school district. If the Class VI school district from which territory is being annexed wishes to dispose of such school building, facilities, or land to any individual or political subdivision, including a Class I school district, the question of such disposition shall be placed on the ballot for the next primary or general election. All registered voters of such Class VI school district shall then vote on the question at such election. A simple majority of the votes cast shall resolve the issue.

(4) Whenever an application for approval of a final plat or replat is filed for territory which lies within the zoning jurisdiction of a city of the first or second class and does not lie within the boundaries of a Class IV or V school district, the affected school board or board of education of the school district within the city of the first or second class or its representative and the affected board or boards serving the territory subject to the final plat or replat or their representative shall meet within thirty days after such application and negotiate in good faith as to which school district shall serve the platted or replatted territory and the effective date of any transfer based upon the criteria prescribed in subsection (2) of this section.

If no agreement has been reached prior to the approval of the final plat or replat, the territory shall transfer to the school district of the city of the first or second class upon the filing of the final plat unless an affected school district petitions the district court within ten days after approval of the final plat or replat and obtains an order enjoining the transfer and requiring the affected boards to continue negotiation. The court shall issue the order upon a finding that the affected board or boards have not negotiated in good faith based on one or more of the criteria listed in subsection (2) of this section. The district court shall require no bond or other surety as a condition for any preliminary injunctive relief. If no agreement is reached after such order by the district court and additional negotiations, the platted or replatted territory shall become a part of the school district of the city of the first or second class.

For purposes of this subsection, plat and replat apply only to (a) vacant land, (b) land under cultivation, or (c) any plat or replat of land involving a substantive change in the size or configuration of any lot or lots.

(5) Notwithstanding any other provisions of this section, all negotiated agreements relative to boundaries or to real or personal property of school districts reached by the affected school boards or boards of education shall be valid and binding.

Sec. 223. Section 79-801.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-801-01. Whenever an existing school district, or a part thereof, is merged into a Class III school district under the provisions of section 79-801 156 or 222 of this act, the property included in such school district, or a part thereof, or part thereof which is merged into the Class III school district, shall continue to be liable for any bonded indebtedness incurred by the school district of which it was a part prior to such merger, and the property included in such school district, or a part thereof, or part thereof which is merged into the Class III school district, shall not be liable for any bonded indebtedness incurred by the Class III school district prior to such merger.

Sec. 224. Section 79-801.02, Reissue Revised Statutes of Nebraska,

is amended to read:

~~79-801-02:~~ Whenever an existing school district, or a part thereof, is merged into a Class III school district under the provisions of section 79-801 156 or 222 of this act, such merger shall be effective on June 1 of the year following the first full school year after such merger.

Sec. 225. Section 79-1002, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1002:~~ All property within the corporate limits of ~~metropolitan cities~~ cities of the metropolitan class, except such property as now is or may hereafter be exempt by law, shall be subject to taxation for all school purposes. The affairs of the school district created by Chapter 79 shall be conducted exclusively by the board of education except as otherwise provided by Chapter 79. ~~Any~~ PROVIDED, that any school district in an unincorporated area which maintains a high school shall, when its area or any part thereof is incorporated into a ~~metropolitan city~~ city of the metropolitan class, remain as a separate and independent district unless a majority of the legal voters of that district voting on the question vote in favor of merging with ~~such metropolitan school district~~ the Class V school district in the city of the metropolitan class. Whenever a petition signed by twenty-five percent of the legal voters in such independent district shall be ~~is~~ presented to the ~~school board or board of education of such independent district~~ requesting that a vote be taken for or against such merger, an election shall be called by the board for that purpose within a reasonable time, ~~thereafter~~ which in no event shall exceed six months, upon a notice given by the officers of such independent district at least twenty days prior to such election. Such election shall be conducted by the election commissioner of the county and results thereof canvassed and certified by him or her to the boards of education of the respective districts involved in ~~said~~ the merger. In the event that if a majority of the legal voters in such independent district voting on the question vote in favor of merging with the ~~metropolitan Class V district~~, the merger shall become effective upon an affirmative vote of a majority of the members of the board of education of the ~~metropolitan school district~~, PROVIDED, Class V district, except that if a majority of the members of the board of education of the ~~metropolitan school district~~ Class V district do not vote in favor of the merger within ninety days after such election, the merger shall not become effective.

Sec. 226. Section 79-1106, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1106:~~ A Class VI school district of the ~~sixth class~~ may be discontinued at an annual or special meeting of the district by a vote of fifty-five percent of the legal voters voting at such meeting; PROVIDED, if notice of such contemplated action is duly given in the notice or call for the meeting.

Sec. 227. Section 79-1107, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1107:~~ If the high school in a ~~rural high~~ Class VI school district is disapproved by the State Board of Education and the legal voters fail to vote to discontinue the high school in that district, the legal voters of any Class I district in the ~~rural high~~ Class VI school district may vote at an annual or special meeting to withdraw from the ~~rural high~~ Class VI school district and if fifty-five percent of the legal voters of ~~said~~ such Class I district vote to withdraw from ~~said rural high~~ the Class VI school district, the county superintendent shall order the Class I district withdrawn from ~~said rural high~~ the Class VI school district.

#### ARTICLE 4

##### PART (h) - PROCEDURES AND RULES FOR NEW OR CHANGED DISTRICTS

Sec. 228. (1) Beginning January 1, 1992, any school district boundaries changed by the means provided by Nebraska law, including the methods provided by the Reorganization of School Districts Act and sections 30 to 32, 151 to 153, 155, 161 to 170, 177, 179, 180, 201 to 206, 208 to 217, 219, 221, 227, 229, 244, 247, and 351 of this act but excluding the method provided by sections 156, 222 to 224, and 302 of this act, shall be made only upon an order issued by the county superintendent. If the boundaries so changed are in more than one county, such order shall be issued jointly by the county superintendents of all counties involved. The order shall be certified to the county clerk of each county in which boundaries are changed and shall also be certified to the State Department of Education. Such order shall be issued no later than June 1 and shall have an effective date no later than August 1 of the same year. For purposes of the school district boundary map provided by the county superintendent pursuant to section 23-3306, determining

school district counts pursuant to sections 277 and 331 of this act, and calculating state aid allocations pursuant to the Tax Equity and Educational Opportunities Support Act, any change in school district boundaries with an effective date between June 1 and August 1 of any year shall be considered effective June 1 of such year.

(2) Unless otherwise provided by state law or by the terms of an affiliation or reorganization plan or petition which is consistent with state law, all assets, including budget authority as provided in sections 669 to 676 of this act, and liabilities, except bonded obligations, of school districts merged, dissolved, or annexed shall be transferred to the receiving district or districts on the basis of the proportionate share of assessed valuation received at the time of reorganization. When a Class II, III, IV, or V school district becomes a Class I school district:

(a) Which becomes part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the Class II, III, IV, or V district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district; or

(b) Which is affiliated or becomes part of a Class VI district which offers instruction in grades nine through twelve, 61.3793 percent of the Class II, III, IV, or V school district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part and to the high school district or districts with which the Class I district is affiliated on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district.

Sec. 229. Section 79-409, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-409.~~ The county superintendent shall file in his or her office all petitions that have been granted for change of boundaries or for the formation of new districts. Such petitions so filed and granted shall be prima facie evidence of the boundaries of districts. All conflicting records of boundaries shall be made to correspond with the petitions so filed and granted.

Sec. 230. Section 79-410, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-410.~~ Whenever the county superintendent of any county shall form forms a new district, it shall be the duty of the superintendent to he or she shall deliver to a taxable inhabitant of such district a notice in writing of the formation of such district, describing its boundaries and specifying the time and place of holding the first meeting. The notice, with the fact of such delivery, shall be entered of record by the county superintendent.

Sec. 231. Section 79-411, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-411.~~ The notice specified in section 79-410 230 of this act shall also be given in the same manner as provided by section ~~79-403~~ 205 of this act for transferring land from one district to another.

Sec. 232. Section 79-412, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-412.~~ The county superintendent shall certify to the chairman chairperson of the first meeting of the new district referred to in section 230 of this act that notice has been given pursuant to sections ~~79-410 and 79-411~~ 230 and 231 of this act.

Sec. 233. Section 79-413, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-413.~~ The chairman chairperson referred to in section 232 of this act shall deliver such notice the notice described in such section and return to the secretary chosen at such meeting, who shall record the same at length in a book, to be provided by him or her at the expense of the district, which shall thereupon become a part of the records of such district. The record shall be prima facie evidence of the facts therein set forth and of the legality of all proceedings in the organization of the district prior to the first district meeting. ~~Nothing contained in this section shall be construed to This section does not~~ impair the effect of the record kept by the county superintendent as evidence.

Sec. 234. Section 79-414, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-414.~~ When a new district is formed in whole or in part from one or more districts possessed of possessing a schoolhouse or other property of a

dissolved district, the county superintendent, at the time of forming such new district or as soon thereafter as may be possible, shall ascertain and determine the amount justly due to such new district from any dissolved district or districts out of which it may have been, the new district was in whole or in part formed. The amount shall be ascertained and determined as nearly as practicable according to the relative value of the taxable property in the respective parts of such former district or districts with the whole value thereof at the time of such division. The fact that the schoolhouse or other property is not paid for shall not deprive such new district of its proportionate share of the value thereof. Such new district shall remain bound for such indebtedness to the same extent as though the new district had not been formed, unless in case of indebtedness not bonded, the same it shall be adjusted as provided in section 79-418 238 of this act. When a new district embraces all of one or more former districts, the new district shall succeed to all the properties and other assets and be responsible for all unbonded indebtedness of such former dissolved district or districts.

Sec. 235. Section 79-415, Reissue Revised Statutes of Nebraska, is amended to read:

79-415. All money on hand and arising from the sale of schoolhouse and site and all other funds of the divided districts described in section 234 of this act shall be divided among the several districts created in whole or part from the divided districts as nearly as practicable in proportion to the taxable valuation of the taxable property attached to the districts formed in whole or in part by such division.

Sec. 236. Section 79-416, Reissue Revised Statutes of Nebraska, is amended to read:

79-416. Whenever, due to the division of any district or due to a district, or any part thereof, being taken over by the United States for any defense, flood control, irrigation, or war project, the schoolhouse, schoolhouse site, or other property of such district is no longer conveniently located for school purposes or desired to be retained by the district in which it may be is situated, the county superintendent of the county in which such schoolhouse, schoolhouse site, or other property is located, may, when ordered by the district, advertise and sell the same at public or private sale and apportion the proceeds. When PROVIDED, when sold at private sale, the sale shall not be binding until approved by the district interested.

Sec. 237. Section 79-417, Reissue Revised Statutes of Nebraska, is amended to read:

79-417. When a district is reduced in size by the purchase or appropriation of land by the United States for any defense, flood control, irrigation, or war project, the district to which such remaining part is attached shall receive a pro rata share of all funds based upon the ratio of taxable valuation of the remaining part to the total taxable valuation of the former district as determined at the last current valuation.

Sec. 238. Section 79-418, Reissue Revised Statutes of Nebraska, is amended to read:

79-418. Subject to the provisions of section 79-414 234 of this act, whenever a new district shall be is organized from the territory of a former district, and there shall be is any indebtedness of such former district which shall not be is not bonded, such unbonded indebtedness shall be taken into account in estimating the sum due from the old district to the new district on account of schoolhouse or other property, and the new district shall be entitled to only the value of its proportionate share of such property after deducting its like share of the indebtedness.

Sec. 239. Section 79-419, Reissue Revised Statutes of Nebraska, is amended to read:

79-419. Every change in district boundary lines must shall be reported as soon as made by the county superintendent to the county clerk and the county treasurer. The county superintendent shall keep in the office of the county clerk a map of the school districts of the county, which map shall be revised as often as the boundary lines or districts are changed or new districts formed. The county superintendent shall also report to the county treasurer the necessary changes to be made upon the tax lists of the county. Upon receiving said such notification, it shall be the duty of the county treasurer to shall adjust the tax list of the county in accordance with the change of district boundaries so that the uncollected taxes levied upon property that has been transferred to another school district shall when collected be placed to the credit of the district to which the property has been transferred.

Sec. 240. Section 79-426, Reissue Revised Statutes of Nebraska, is amended to read:

79-426. Every school district shall, in all cases, be presumed to

have been legally organized when it ~~shall have~~ has exercised the franchises and privileges of a district for the term of one year.

Sec. 241. Section 79-509, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-509.~~ When a new Class I or Class II school district of the first or second class is organized and officers are elected at any other time than at the annual meeting, the time intervening between the date of organization and the beginning of the next school year shall constitute the first year in the term of such officers.

Sec. 242. Section 79-510, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-510.~~ Within ten days after their election, ~~the these several~~ officers of a new Class I or Class II school district as referred to in section 241 of this act shall file with the secretary a written acceptance of the offices to which they ~~shall have been respectively have been~~ elected, which ~~acceptance~~ shall be recorded by the secretary. The office of any such officer who ~~shall fail~~ fails to file such acceptance within the time ~~herein~~ specified in this section shall become vacant at the expiration of such period, and shall be filled by the remaining members of the board.

Sec. 243. Section 79-511, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-511.~~ Every such school district of the first or second class new Class I or Class II school district described in section 241 of this act shall be deemed duly organized when the majority of the officers elected at the first meeting ~~shall~~ have filed their acceptance as provided in section 79-510 242 of this act. A reorganized school district shall be formed, organized, and have a governing board not later than April 1 following the last legal action, as prescribed in section 79-402, 79-426-18, or 79-426-26 162, 199, or 204 of this act, necessary to effect the changes in boundaries as set forth in the petition or plan of reorganization, although the physical reorganization of such reorganized school district may not take effect until the commencement of the following school year.

Sec. 244. Section 79-512, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-512.~~ In case the inhabitants of any new Class I or Class II school district referred to in section 241 of this act district of the first or second class ~~shall~~ fail to organize it, pursuant to notice given as provided in section 79-410 230 of this act, the county superintendent shall give a new notice and the same proceeding shall be had thereon as if no previous notice had been delivered. In case the inhabitants of such district ~~shall~~ again fail to organize pursuant to such notice, the county superintendent shall immediately dissolve such district and attach the same it to an adjoining district or districts.

Sec. 245. Section 79-536, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-536.~~ Each school district created by merger with other districts shall provide for the payment of debts created by school districts, or other school organizations, superseded by the merged district, when such debts have been incurred in the erection of schoolhouses or for other school purposes. If any portion of such debt is in the form of bonds, if issued for a valuable consideration, the holder or holders thereof, upon surrendering the same to the school board or board of education, shall have the right to demand, ~~and it shall be the duty of the board, and the board~~ in the name of the merged district, ~~to shall~~ cause to be issued, other bonds of like amount and of like tenor and effect as to payment of principal and interest as the bonds surrendered. This provision shall also apply to cases when only a part of a district is embraced within the merged district whenever the fractional part becomes a part of the merged district. The merged district shall assume and pay only such proportion of debt of divided districts as the taxable valuation of the part taken ~~therefrom~~ bears to the taxable valuation of the whole district. This section applies to Class IV and V districts only.

Sec. 246. Section 79-537, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-537.~~ In case of a division of one or more school districts within the corporate limits of a primary or metropolitan city, it shall be the duty of city of the primary or metropolitan class, the county superintendent of schools, the president of the board of education, and the secretary of the school districts, ~~to shall~~ appraise and adjust all claims or assets in such manner that each district shall bear its proportion of the indebtedness and have its proportion of the assets of the district.

## PART (i) - DEPOPULATED DISTRICTS

Sec. 247. Section 79-420, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-420.~~ When, for a period of one school term, a school district (1) has less than three legal voters residing therein in the district or (2)(a) either fails to maintain a public elementary school within the district in which are enrolled and in regular attendance for at least one thousand thirty-two hours one or more pupils of school age residing in the district, other than option students as defined in section 79-3402 37 of this act, or (b) does not contract for the tuition and transportation of pupils of such district with another district or districts and have pupils attending school regularly for at least one thousand thirty-two hours under such contract or contracts, it shall be the duty of the county superintendent of the county in which such district lies to shall, subject to the requirements of this section, dissolve such district and attach the territory of such district to one or more neighboring school districts. Before ~~except that before~~ dissolving a district under this section, the county superintendent shall fix a time for a hearing and shall notify each legal resident of the district at least fifteen days before such hearing. When the dissolution will create extreme hardships on the pupils of the district affected, the State Board of Education may, on application by the school board or board of education of the district and the recommendation of the county superintendent of the county in which the district is located, annually waive the requirements of this section. Notification shall be by mail or by publication in a newspaper of general circulation in the area.

If the county superintendent finds that the district is required by this section to be dissolved, he or she shall enter an order dissolving the district and attach the territory of such district to one or more neighboring school districts. Dissolutions involving the transfer of territory across county lines shall be acted upon jointly by the county superintendents of the counties concerned. Appeals from the action of the county superintendent may be made to the district court of the county of the official concerned. The county superintendent shall distribute the assets of the closed district among the other district or districts to which the property has been attached in proportion to the taxable valuation of the property attached to such district or districts.

Sec. 248. Section 79-516.08, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(3) Any Class II or III school district maintaining a four-year high school which has a fall school district membership or an average daily membership of less than twenty-five students in grades nine through twelve may contract with another school district to provide educational services for its pupils in grades nine through twelve. Such contract may continue for a period, not to exceed one year. At the end of such one-year period, the school district may resume educational services for grades nine through twelve if the average daily membership in grades nine through twelve for such school district has reached at least fifty students. If the school district has not achieved such fall school district membership or average daily membership, it shall become a Class I school district as prescribed in subsection (2) of this section.

(4) For purposes of this section, when calculating fall school district membership or average daily membership, a resident school district as defined in section 79-3402 37 of this act shall not count students attending an option district as defined in such section 79-3402 and a Class II or III school district shall not count foreign exchange students and nonresident students who are wards of the court or state.

#### ARTICLE 4

##### PART (j) - SPECIAL PROVISIONS FOR AFFILIATED DISTRICTS

Sec. 249. Section 79-101.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-101-01. (1) For purposes of statutes governing schools:

(a) (1) Affiliated school system shall mean means the high school

district and the Class I districts or portions of Class I districts affiliated with such high school district;

(b) (2) Affiliation or affiliation of school districts shall mean means an ongoing association of a Class I district or portion thereof not a part of a Class VI district with one or more existing Class II, III, IV, or V districts for the purpose of (i) (a) providing a high school program serving the Class I district students and (ii) (b) maintaining tax support to finance such program. The services provided may include student transportation; and

(c) (3) Class VI school system shall mean means a Class VI school district and each Class I school district or portion thereof which is part of the Class VI district.

(2) Beginning January 1, 1992, any school district boundaries changed by the means provided by Nebraska law, including the methods provided by sections 79-102.01, 79-102.02, 79-402, 79-402.03 to 79-402.10, 79-402.17, 79-402.19, 79-402.20, 79-403 to 79-403.03, 79-406, 79-407, 79-408, 79-408.01 to 79-408.03, 79-409, 79-420, 79-421, 79-426.01 to 79-426.19, 79-426.23 to 79-426.26, 79-426.28, 79-460 to 79-482, 79-486, 79-512, 79-533, 79-603, 79-701, 79-1107, and 79-1108 but excluding the method provided by sections 79-801 to 79-810.01, shall be made only upon an order issued by the county superintendent. If the boundaries so changed are in more than one county, such order shall be issued jointly by the county superintendents of all counties involved. The order shall be certified to the county clerk of each county in which boundaries are changed and shall also be certified to the State Department of Education. Such order shall be issued no later than June 1 and shall have an effective date no later than August 1 of the same year. For purposes of the school district boundary map provided by the county superintendent pursuant to section 23-3306, determining school district counts pursuant to section 79-458, and calculating state aid allocations pursuant to the Tax Equity and Educational Opportunities Support Act, any change in school district boundaries with an effective date between June 1 and August 1 of any year shall be considered effective June 1 of such year.

(3) Unless otherwise provided by state law or by the terms of an affiliation or reorganization plan or petition which is consistent with state law, all assets, including budget authority as provided in sections 79-3814 to 79-3821, and liabilities, except bonded obligations, of school districts merged, dissolved, or annexed shall be transferred to the receiving district or districts on the basis of the proportionate share of assessed valuation received at the time of reorganization. When a Class II, III, IV, or V school district becomes a Class I school district:

(a) Which becomes part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the Class II, III, IV, or V district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district; or

(b) Which is affiliated or becomes part of a Class VI district which offers instruction in grades nine through twelve, 61.3793 percent of the Class II, III, IV, or V school district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part and to the high school district or districts with which the Class I district is affiliated on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district.

Sec. 250. Section 79-101.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-101.02. For purposes of sections section 10-716.01, 79-101.01, 79-101.02, 79-402.11, 79-402.13 to 79-402.20, 79-426.17, 79-426.28, 79-437.03, 79-438.12, 79-490, and 79-4,222 and sections 151, 171, 173 to 180, 198, 249 to 251, 372, 722, and 723 of this act:

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

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

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

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

(5) High school students ~~shall mean~~ means students enrolled in a high school program.

Sec. 251. Section 79-4,222, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,222:~~ (1) For purposes of eligibility for or entitlement to any educational service or program, any student residing in an affiliated Class I district who is enrolled in the high school program of an affiliated school system shall be considered to be a resident of the Class II, III, IV, or V district which is part of such affiliated school system. Such student shall be treated for purposes of any educational service, including special education services, extracurricular programs, and other school-sponsored activities, as if he or she were a resident student of the high school district.

(2) All children residing in a Class I district or portion thereof which is affiliated who are fourteen through twenty years of age shall be counted on the school census of the affiliated high school district pursuant to section ~~79-451~~ 281 of this act.

Sec. 252. Section 79-4,105.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,105.01:~~ An advisory committee shall be created for each affiliated high school district. The advisory committee shall be composed of three school board members selected by all the school board members of the Class I school districts with which such Class II, III, IV, or V district is affiliated. The county superintendent shall call a meeting of all the school board members of such Class I school districts, not a part of a Class VI school district, for the purpose of establishing such advisory committees. Representatives shall serve three-year terms.

The advisory committee shall provide advice and communication to the school board of such affiliated high school district regarding the high school program, facilities, and budget and the needs and concerns of students, parents, and taxpayers in the Class I school district or districts. Each advisory committee shall meet at least biannually with the school board and participate in good faith in those coordination requirements specified in section ~~79-4,158.01~~ 390 of this act.

Sec. 253. Section 79-4,224, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,224:~~ If the provisions of sections 10-716.01, 79-101.01, 79-101.02, 79-402.13 to 79-402.20, 79-426.28, 79-437.03, 79-438.08, 79-438.12, and 79-4,222, as amended by Laws 1991, LB 511, and Laws 1992, LB 245, sections 79-402.11, 79-426.01, 79-426.08, 79-426.17, 79-490, and 79-4,140.16, as amended by Laws 1990, LB 259, and sections 79-402, 79-402.03, 79-402.04, 79-426.02, 79-4,105.01, and 79-4,158.01, as amended by Laws 1990, LB 259, Laws 1991, LB 511, and Laws 1992, LB 245, as such sections existed immediately before the effective date of this act, are found to be unconstitutional pursuant to the final determination of the Nebraska Supreme Court on or after July 1, 1993, the provisions of sections 79-436, 79-437, 79-495 to 79-499, and 79-4,101 to 79-4,105 shall be revived as such sections existed on July 10, 1990.

#### ARTICLE 5 - SCHOOL BOARDS

##### PART (a) - SCHOOL BOARD POWERS

Sec. 254. Section 79-441, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-441:~~ The school board or board of education of a Class I, II, III, IV, or VI school district shall have the care and custody of the schoolhouse and other property of the district, and shall have authority to hire a superintendent and the required number of teachers and other necessary personnel.

Sec. 255. Section 79-442.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-442.01:~~ The governing board school board or board of education of any Class I, II, III, IV, or VI school district may provide its members with hospitalization, medical, surgical, accident, sickness, or term life insurance coverage or any one or more of such coverages.

Sec. 256. Section 79-201.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201.01:~~ It is the intent of the Legislature to promote increased efficiency in the utilization of public schoolhouses and other school facilities by providing for a program of year-round operation of the public schools of this state. The Legislature finds that the cost of education is substantially increased when schoolhouses sit idle for three months of the

year and that the rural and pioneer conditions which dictated summer closing of public schools no longer prevail in many of the school districts of the state.

Sec. 257. Section 79-201.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201-02-~~ Commencing July 1, 1993, any Any public school district in this state may convert any or all of the schools in the district to year-round operation under sections 79-201-01 to 79-201-03 256 to 258 of this act upon an affirmative vote of at least seventy-five percent of the school board or board of education. The vote shall be taken at a public meeting of the school board following a special public hearing called for the purpose of receiving testimony on such conversion. The school board shall give at least seven calendar days' notice of the time, place, and purpose of such hearing and shall publish such notice at least once in a newspaper of general circulation in the school district. Such schools shall meet all State Board of Education rules and regulations pertaining to accreditation.

Sec. 258. Section 79-201.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201-03-~~ No public school district shall convert to a year-round operation without notifying the State Board of Education of compliance with sections 79-201-01 to 79-201-03 256 to 258 of this act.

Sec. 259. Section 79-201.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201-04-~~ The school board or board of education of any school district proposing to convert to a year-round operation shall study the feasibility thereof and of such conversion, prepare a plan of operation, and submit the results of such study and plan to the State Board of Education.

Sec. 260. Section 79-201.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201-05-~~ Such The feasibility study required by section 259 of this act shall be conducted pursuant to rules and regulations of the State Board of Education. Such study shall take into account (1) the present and projected enrollment of the district as a whole and for each grade actually taught, (2) the extent of utilization of existing schoolhouses and other school facilities, (3) the savings of future construction costs that would result from year-round operation, (4) the problems of school staffing that might result, (5) the probability of public acceptance, and (6) such other matters as the State Board of Education may require.

Sec. 261. Section 79-201.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201-06-~~ Such The proposed plan of operation required by section 259 of this act shall show all aspects of the proposed operation and provide for:

(1) A minimum of (a) one thousand thirty-two instructional hours of required school attendance for each elementary school pupil in each school year and (b) one thousand eighty instructional hours of required school attendance for each high school pupil in each school year;

(2) Any attendance center at which year-round operations shall be conducted, including the change of such center as the changing characteristics of the district may require;

(3) The basis of pupil assignments to the particular year for instruction and to attendance centers, including provisions for student transfers;

(4) Curriculum development and organization;

(5) Staffing with adequate provisions for vacations and opportunities for professional growth of certified staff and faculty members;

(6) Student vacation time;

(7) Transportation and maintenance provisions; and

(8) Such other matters as the State Board of Education may require.

Sec. 262. Section 79-201.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201-07-~~ The State Board of Education may (1) approve the feasibility study and the proposed plan of operation described in sections 259 to 261 of this act, in which case it shall so notify the school board or board of education and authorize it to proceed under section 79-201-08 263 of this act, (2) approve the study but disapprove the proposed plan in whole or in part, in which case it shall return the proposed plan with a statement of its objections thereto and advise the board of education that an amended plan may be submitted, or (3) disapprove both the study and the proposed plan, in which case it shall return them with its objections thereto and advise the board of education that a new or extended study may be conducted and submitted and that an amended plan may be submitted. No action shall be taken under section

~~79-201-08~~ 263 of this act until both the study and the proposed plan have been approved by the State Board of Education.

Sec. 263. Section 79-201.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201-08-~~ When both such study and such the study and the proposed plan required by sections 259 to 261 of this act have been approved by the State Board of Education, the school board or board of education shall submit the question of converting to year-round operation to the voters of the district at a general school election or at a special election called for that purpose. If a majority of the voters voting on the proposal are in favor thereof of the question, the school district shall convert to year-round operation commencing the first July 1 following the election. If the issue is defeated, it shall not again be submitted to the voters until a new study and plan of operation have been submitted to and approved by the State Board of Education.

Sec. 264. Section 79-201.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201-09-~~ The State Board of Education shall adopt and promulgate rules and regulations necessary to carry out sections ~~79-201-01 to 79-201-09 256 to 264 of this act.~~

Sec. 265. Section 79-4,149, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,149-~~ The school board or board of education of any school district in this state may pay from its school funds an amount to be determined by the ~~school board or board of education~~ board for membership dues in associations of school boards or boards of education.

Sec. 266. Section 79-4,150, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,150-~~ The school board or board of education of any school district in this state may pay from its school funds for the legal services of an attorney employed by the ~~school board or board of education~~ board when it deems legal counsel necessary or advisable.

Sec. 267. Section 79-4,152, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,152-~~ The governing body school board or board of education of any school district shall have the authority to purchase retirement annuity contracts for any or all of its employees from any insurance company licensed to do business in the State of Nebraska, may enter into contracts with its employees providing for the purchase by it of such retirement annuity contracts, or may provide for the purchase by it of such retirement annuity contracts in the general contract of employment with any or all of its employees. ~~Where~~ When necessary in connection with the purchase of retirement annuity contracts, any such employee may execute an order authorizing the withholding of necessary amounts from any wages or salary payable to the employee, and such order and revocation thereof shall be executed in the manner and form required by section 44-1609.

Sec. 268. Section 79-4,154.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,154-01-~~ The governing board school board or board of education of any school district may enter into contracts under such terms and conditions as the board deems appropriate, for a ~~period periods~~ not to exceed four years, for the provision of utility services, refuse disposal, transportation services, maintenance services, financial services, insurance, security services, and instructional materials, supplies, and equipment and for collective-bargaining agreements with employee groups. ~~Nothing in this section shall be construed to This section does not permit~~ multiyear contracts with individual school district employees.

Sec. 269. Section 79-4,155, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,155-~~ (1) For purposes of this section, (a) school board shall ~~have~~ have the definition found in section ~~79-101 1 of this act and~~ (b) school district shall ~~have~~ have the definition found in such section. ~~79-101-~~

(2) A school district may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, other than an action by or in the right of the school district, by reason of the fact that such person is or was a school board member or an officer, employee, or agent of the school district, against expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding if such person acted in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of

the school district and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that such person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the school district and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

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

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

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

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

(7) The indemnification provided by this section shall not be deemed exclusive of any other rights to which the person indemnified may be entitled under any agreement, either as to action in his or her official capacity or as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a school board member or an officer, employee, or agent of the school district and shall inure to the benefit of the heirs, executors, and administrators of such person.

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

Sec. 270. Section 79-4,246, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,246.~~ For purposes of section 79-4,247, volunteer shall mean 271 of this act. volunteer means a person who is not an elected or appointed official or employee of a school district who, at the request or with the permission of the governing body school board or board of education of the school district, engages in activities related to the purposes and functions of the school district or for its general benefit.

Sec. 271. Section 79-4,247, Reissue Revised Statutes of Nebraska,

is amended to read:

~~79-4,247.~~ The governing body school board or board of education of any school district may authorize the issuance of a pass to any elected or appointed official, employee, retired employee, or volunteer of the district, member of a senior citizens group, or city official authorizing the admittance of the recipient of the pass and his or her spouse to recognized school activities without the need for the payment of any fee or charge. Such pass may be issued at no cost to the recipient or at such cost as may be designated by the governing body board.

Sec. 272. Section 79-508, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-508.~~ The qualified voters of a Class I or Class II school district of the first or second class may also give such directions and make such provisions as they shall deem necessary in relation to the prosecution or defense of any proceeding in which the district may be a party or interested.

Sec. 273. Section 79-807, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-807.~~ The boards board of education of a Class III school districts shall have district has power to select their its own officers and make their its own rules and regulations not inconsistent with any statute applicable to such districts district. No member of the board, except the secretary, shall accept or receive any compensation for services performed in discharging the duties of his or her office.

Sec. 274. Section 79-907, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-907.~~ The board of education of a Class IV school district shall have has power to select its own officers and make rules and regulations necessary to carry out the board's legal duties. The board of education, or any committee of the members thereof of the board, shall have has power to compel the attendance of witnesses for the investigation of matters that may come before them. The presiding officer of the board of education, or the chairman chairperson of such committee, may administer the requisite oaths, and such board or committee shall have has the same authority to compel the giving of testimony as is conferred on courts of justice.

Sec. 275. Section 79-1003.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1003.04.~~ The board of education shall have of a Class V school district has power to select its own officers, and make its rules and regulations. The board of education herein provided for, or any committee of the members thereof, shall have of the board has power to compel the attendance of witnesses for the investigation of matters that may come before them it. The presiding officer of the board of education, or the chairman chairperson of such committee for the time being, may administer the requisite oaths, and such board or committee thereof shall have has the same authority to compel the giving of testimony as is conferred on courts of justice.

Sec. 276. The board of education of a Class VI school district has the same powers and duties as and shall be governed by the provisions of law governing the school boards in Class I and II school districts for purposes authorized by law, except that the board of a Class VI district may undertake building projects and expend money from a special fund established pursuant to section 766 of this act in the same manner and subject to the same restrictions as any Class II, III, IV, or V school district, and for such purposes section 767 of this act shall not apply. The annual meetings as provided in section 309 of this act shall not apply to any Class VI school district.

Sec. 277. The board of education of any Class I, II, III, IV, or VI school district may, at its option, establish a permanent and continuing census or enumeration of school children in the school district. The list in writing of the names of the children and taxpayers shall not be required to be reported to the county superintendent, but the names of all of the children belonging to such school district, from birth through twenty years of age, shall instead be kept in a depository maintained by such school district and subject to inspection at all times. Such record shall not or need not include the names of all the taxpayers in the district.

ARTICLE 5  
PART (b) - SCHOOL BOARD DUTIES

Sec. 278. Section 79-440, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-440.~~ The school board or board of education of a Class I, II, III, IV, or VI school district shall (1) provide the necessary appendages for

the schoolhouse, (2) keep the same in good condition and repair during the time school shall be is taught in the schoolhouse, and (3) keep an accurate account of all expenses incurred. Such account shall be prepared by the secretary, audited by the president and treasurer, and, on their written order, shall be paid out of the general school fund.

Sec. 279. Section 79-443, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-443. The district school boards and boards board or board of education shall have of a Class I, II, III, IV, or VI school district has responsibility for~~ the general care and upkeep of the schools, shall provide the necessary supplies and equipment, and, except as herein otherwise provided, ~~shall have~~ has the power to cause pupils to be taught in such branches and classified in such grades or departments as may seem best adapted to a course of study which the school board or board of education board shall establish with the consent and advice of the State Department of Education. In Class I and Class II school districts, ~~of the first and second classes, the school boards the board~~ shall classify the pupils according to a course of study provided by the department. Each school board and board of education in this state The board shall make provision for pupils that may enter at any time during the school year. They The board shall cause to be kept, in a book provided for such purpose, a record of the advancement of all pupils in each branch of study. They The board shall make such rules and regulations as they may think it deems necessary for the government and health of the pupils, and devise such any means as may seem best to secure the regular attendance and progress of children at school.

Sec. 280. Section 79-449.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-449.01.~~ The chief executive officer of a public or a nonpublic school system serving any of grades seven through twelve shall annually report to the Commissioner of Education in such detail and on such date as required by the commissioner the number of students who have dropped out of school or were for any reason suspended or excluded from school during the year.

Sec. 281. Section 79-451, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-451. The secretary shall-~~ (1) On or before July 20 in all classes of school districts, ~~the secretary of the school board or board of education shall~~ deliver to the county superintendent, to be filed in his or her ~~the county superintendent's~~ office, a report under oath showing the number of children from birth through twenty years of age belonging to the school district according to the census taken as provided in section 79-458 sections 277 and 331 of this act. The report shall identify the number of boys and the number of girls in each of the respective age categories. Each Class I school district which is part of a Class VI school district offering instruction (a) in grades kindergarten through six shall report children from birth through eleven years of age and (b) in grades kindergarten through eight shall report children from birth through thirteen years of age. Each Class VI school district offering instruction (i) in grades seven through twelve shall report children who are twelve through twenty years of age and (ii) in grades nine through twelve children who are fourteen through twenty years of age. Each Class I district which has affiliated in whole or in part shall report children from birth through thirteen years of age. Each Class I district which is not in whole or in part a part of a Class VI district and which has not affiliated in whole or in part shall report children from birth through twenty years of age. Each Class II, III, IV, or V district shall report children who are fourteen through twenty years of age residing in Class I districts or portions thereof which have affiliated with such district. The school board of any district neglecting to take and make return of report the enumeration shall be liable to the school district for all school money which such district may lose by such neglect. ¶

(2) On or before July 15 in all school districts, ~~the secretary of the school board or board of education shall~~ deliver to the county superintendent, to be filed in his or her ~~the county superintendent's~~ office, a report under oath described as an end-of-the-school-year annual statistical summary showing (a) the number of children attending school during the year under five years of age and also the number twenty-one years of age and older, (b) the length of time the school has been taught during the year by a qualified teacher, (c) the length of time taught by each substitute teacher, and (d) such other information as the Commissioner of Education directs. ¶

(3) On or before October 15 in Class I school districts, ~~the secretary of the school board shall~~ submit to the county superintendent, to be filed in his or her ~~the county superintendent's~~ office, and on or before November 1 in Class II, III, IV, V, and VI school districts, ~~the secretary of~~

the school board or board of education shall submit to the county superintendent and to the Commissioner of Education, to be filed in their offices, a report under oath described as the annual financial report showing (a) the amount of money received from all sources during the year and the amount of money expended by the school district during the year, (b) the rate of tax levied for all school purposes, (c) the amount of bonded indebtedness, (d) such other information as shall be necessary to fulfill the requirements of sections 79-3304 and 79-3803 to 79-3821 654 to 676 and 796 of this act, and (e) such other information as the Commissioner of Education directs, and

(4) On or before October 15 of each year, the secretary of each school board or board of education shall deliver to the county superintendent and to the State Department of Education the fall school district membership report, which report shall include the number of children from birth through twenty years of age enrolled in the district on the last Friday in September of a given school year. The report shall enumerate (a) resident students by grade level and nonresident students by grade level and classification, including, but not limited to, option students as defined in section 37 of this act, wards of the court, or contract students, (b) school district levies for the current fiscal year, and (c) total assessed valuation for the current fiscal year. When any school district fails to submit its fall school district membership report by November 1, the commissioner shall, after notice to the district and an opportunity to be heard, direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the report is received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of such report. The county treasurer shall withhold such money.

Sec. 282. Section 79-4,143, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,143: It shall be the duty of school boards and boards of education to Each school board or board of education shall provide on every schoolhouse site, and keep in good repair and in clean and healthful condition, at least two separate toilets, located on those portions of the site farthest from the main entrance to the schoolhouse, and as far from each other as the surrounding conditions will permit. When PROVIDED, where adequate and separate interior closets are provided and maintained in good repair and healthful condition, the foregoing condition of this section shall does not apply.

Sec. 283. Section 79-4,242, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,242: The Legislature hereby finds and declares:  
 (1) That parental involvement is a key factor in the education of children;  
 (2) That parents need to be informed of the educational practices affecting their children; and  
 (3) That public schools should foster and facilitate parental information about and involvement in educational practices affecting their children.

It is the intent of the Legislature, through the enactment of sections 79-4,243 to 79-4,245 284 to 286 of this act, to strengthen the level of parental involvement and participation in the public school system of the state.

Sec. 284. Section 79-4,243, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,243: On or before July 1, 1995, each public school district in the state shall develop and adopt a policy stating how the district will seek to involve parents in the schools and what parents' rights shall be relating to access to the schools, testing information, and curriculum matters.

Sec. 285. Section 79-4,244, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,244: The policy required by section 79-4,243 284 of this act shall include, but need not be limited to, the following:

- (1) How the school district will provide access to parents concerning textbooks, tests, and other curriculum materials used in the school district;
- (2) How the school district will handle requests by parents to attend and monitor courses, assemblies, counseling sessions, and other instructional activities;
- (3) Under what circumstances parents may ask that their children be excused from testing, classroom instruction, and other school experiences the

parents may find objectionable;

(4) How the school district will provide access to records of students;

(5) What the school district's testing policy will be; and

(6) How the school district participates in surveys of students and the right of parents to remove their children from such surveys.

Sec. 286. Section 79-4,245, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,245-~~ The policy required by section 79-4,243 ~~284~~ of this act shall be developed with parental input and shall be the subject of a public hearing before the school board or board of education of the school district before adoption by the board. The policy shall be reviewed annually and either altered and adopted as altered or reaffirmed by the board following a public hearing.

Sec. 287. Section 79-802, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-802-~~ All Class III school districts shall be under the direction and control of the school boards of education elected pursuant to section 32-543. The schools of such school district shall be free to all children who are five through twenty years of age whose parents or guardians are legal residents of such school district and all children of school age, nonresidents of the school district, who are or may be by law allowed to attend the schools without charge.

Sec. 288. Section 79-1001.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1001-01-~~ All schools erected or organized within the limits of cities of the metropolitan class shall be under the direction and control of the board of education authorized by section 79-1003 ~~305~~ of this act. Such schools shall be free to all children who are five through twenty years of age whose parents or guardians reside within the limits of the school district and to all children of school age, nonresidents of the district, who are or may be by law allowed to attend such school without charge.

Sec. 289. Section 79-1001.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1001-02-~~ The board of education of a fifth-class Class V school district shall require children between and including the ages of six and fifteen years, regularly enrolled within the system and deemed by the school administration to be making unsatisfactory progress, to attend summer school for up to one-half of a regular school day, if in the opinion of the administration they would benefit from the experience. Chief emphasis in such summer classes shall be on reading, language arts, and arithmetic, and those areas of personality development especially in need of development. Teachers shall be encouraged to design new and imaginative techniques and curricula not usually used during the regular school year, which in the opinion of such teachers will offer new incentives towards learning, with special emphasis on those techniques that seek to develop the students' personalities in a wholesome manner, especially developing pride, self-confidence, and self-control. Teachers of such classes shall not be assigned more than fifteen students, or more than twenty-five students if assisted full time by an aide or paraprofessional. Such students shall be graded at the end of the course upon their relative degree of striving to improve their skills, attitudes, and personalities.

Sec. 290. Section 79-1006, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1006-~~ The board of education of a Class V school district shall cause to be taken an enumeration of all persons each year from birth through twenty years of age residing in the school district. It shall report the same, together with such other information as is required by sections 79-451 and 79-458 ~~277, 281, and 331~~ of this act, to the county superintendent at the time specified by law for like returns in other districts, except that the information required by ~~section 79-458~~ sections 277 and 331 of this act as to children under five years of age may be limited to the number of children by age level and shall not include the names of all the taxpayers in the district. The board of education of any such school district may, at its option, establish a permanent and continuing census or enumeration of school children.

Sec. 291. Section 79-1105, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1105-~~ The school board in districts of the sixth class board of education of a Class VI school district shall, within such period as it shall prescribe, file all reports as required by the State Department of Education within the period prescribed by the department.

Sec. 292. Section 79-4,158, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,158-~~ The school board or board of education of each school district shall adopt and publish an official policy respecting personnel files and student records, which policy shall not conflict in any manner with the rules and regulations of the State Records Administrator adopted pursuant to sections 84-1201 to 84-1220 the Records Management Act.

ARTICLE 5

PART (c) - SCHOOL BOARD ELECTIONS AND MEMBERSHIP

Sec. 293. Section 79-428, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-428-~~ If any person offering to vote at any Class I, II, III, IV, or VI school district meeting or election ~~shall be~~ is challenged as unqualified by any registered voter in such school district, the ~~chairman~~ chairperson presiding at such meeting or a judge at such election shall explain to the person challenged the qualifications of a voter. If such person ~~shall state that he states that he or she is qualified,~~ and the challenge ~~shall not be~~ is not withdrawn, the ~~said chairman~~ chairperson or judge shall administer to him an oath, which ~~shall be~~ reduced to writing, in substance as follows: "You do solemnly swear (or affirm) that you are a citizen of the United States, that you are of the constitutionally prescribed age of an elector or upwards, that you are domiciled in this precinct or ward, which precinct or ward lies in whole or in part within the boundaries of this school district, and that you are registered to vote in this precinct or ward, so help you God." Every person taking such oath and signing his or her name thereto shall be permitted to vote on all questions proposed at such meeting or election.

Sec. 294. Section 79-429, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-429-~~ If any person ~~so challenged shall refuse~~ challenged under section 293 of this act refuses to take such oath, his or her vote shall be rejected. Any person who ~~shall willfully take a false oath, or make willfully takes a false oath or makes~~ a false affirmation, under the provisions of such section ~~79-428,~~ shall be deemed guilty of perjury and shall, upon conviction, be fined or imprisoned as provided in section 28-915.

Sec. 295. Section 79-430, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-430-~~ When a vote on any question is taken in any other manner than by ballot, a challenge under section 293 of this act immediately after the vote has been taken, and previous to an announcement of the vote by the chair, shall be deemed to be made when offering to vote and treated in the same manner. An oath shall be taken, and reduced to writing, as provided in ~~section 79-428~~ such section.

Sec. 296. Section 79-443.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-443.01-~~ No person shall file for office, be nominated or elected, or serve as a member of a school board in any class of school district unless he or she is a registered voter in such district.

Sec. 297. Section 79-466, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-466-~~ No member of a school board or board of education of a Class I, II, III, IV, or VI school district shall be employed as a teacher by the school district on which board he or she serves. This section does not ~~PROVIDED, this section shall not apply to a part-time county superintendent who by law serves on a board of education.~~

Sec. 298. Section 79-467.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-467.01-~~ Vacancies in each school district office shall occur as set forth in section 32-570 and be filled according to such section.

Sec. 299. Section 79-4,241, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,241-~~ Except as provided in section 79-2203 934 of this act, all members of a school board, board of education, or other governing board created pursuant to Chapter 79 shall not receive a per diem. Each such board may provide or reimburse members for their actual and necessary expenses incurred while carrying out their duties. Mileage expenses shall be computed at the rate provided in section 81-1176. Sections 81-1174, 81-1175, and 81-1177 shall serve as guidelines for such boards when determining allowable expenses and reimbursement for such expenses. For purposes of this section, governing board created pursuant to Chapter 79 shall not include a community

college board of governors.

Sec. 300. Section 79-516.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-516.04.~~ (1) The school board or board of education shall consist of the following members:

(a) In a Class II district, six members; and

(b) In a Class III district, six members unless the board of education has provided, or hereafter provides, provides a nine-member board pursuant to section 79-803.01 303 of this act.

(2) In addition to the members specified in subsection (1) of this section, such school boards or boards of education may include one or more student members selected pursuant to section 79-547.02 312 of this act.

Sec. 301. Section 79-601.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-601.01.~~ The qualified voters of a Class I school district having a school census of more than one hundred fifty persons may, at an annual or special meeting by a favorable vote of fifty-five percent of the persons in attendance and voting, change to a six-member board. The district shall continue to have a six-member board until fifty-five percent of the persons in attendance and voting at an annual or special meeting vote to change to a three-member board. Board members of a six-member board shall be elected as provided in section 32-541 or as provided for in subsection (3) of section ~~79-601~~ 318 of this act. All teachers elected by such a district must meet the same qualifications as do the teachers in Class II districts.

Sec. 302. Section 79-803.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-803.03.~~ (1) The board of education of a Class III school district of which more than seventy-five percent of the geographical area lies within a city of the metropolitan class shall consist of six members to be elected as provided in section 32-543 and also may include one or more nonvoting student members selected pursuant to section 79-547.02 312 of this act. Until the registered voters of the district vote not to continue to have a caucus for nominations pursuant to subsection (2) of this section, a caucus shall be held pursuant to subsection (3) of this section not less than seventy days prior to the holding of the election to nominate two or more candidates for each vacancy to be voted upon at the election to be held in conjunction with the statewide primary election. If the registered voters vote not to continue to have a caucus, candidates shall be nominated at a primary election held in conjunction with the primary election for the city of the metropolitan class. No candidate nominated shall have his or her name placed upon the ballot for the general election unless, not more than ten days after his or her nomination, he or she files with the secretary of the board of education a written statement accepting the nomination. The secretary of the board of education shall certify the names of the candidates to the election commissioner or county clerk who shall prepare the official ballot listing the names as certified and without any area designation. All registered voters residing within the school district shall be permitted to vote at such election.

(2) The board of education may place before the registered voters of the school district the issue of whether to continue to have a caucus for nominations by adopting a resolution to do so and certifying the issue to the election commissioner or county clerk prior to September 1 for placement on the ballot at the next statewide general election. The registered voters of the school district may also have the issue placed on the ballot at the statewide general election by circulating a petition and gathering the signatures of the registered voters residing within the school district at least equal to seven percent of the number of persons registered to vote in the school district at the last statewide primary election. The petitions shall be filed with the election commissioner or county clerk for signature verification on or before August 15 prior to a statewide general election. If the election commissioner or county clerk determines that the appropriate number of registered voters signed the petition, he or she shall place the issue on the ballot for the next statewide general election. The issue shall not be placed on the ballot again within four years after voting on the issue at a statewide general election.

(3) A school district which uses a caucus for nominations shall develop rules and procedures for conducting the caucus which will ensure:

(a) Publication of the rules and procedures by multiple sources if necessary so that every resident of the school district has access to information on the process for placing a name in nomination and voting at the caucus;

(b) Facilities for voting at the caucus which comply with the

federal Americans with Disabilities Act of 1990 and which will accommodate a reasonably anticipated number of registered voters;

(c) Election security which will provide for a fair and impartial election, including the secrecy of the ballot, one vote per registered voter, and only registered voters of the school district being allowed to vote;

(d) Equal access to all registered voters of the school district, including the presence of an interpreter at the caucus at the expense of the school district and ballots for the visually impaired to provide access to the process by all registered voters of the school district;

(e) Adequate time and opportunity for registered voters of the school district to exercise their right to vote; and

(f) Notification of nomination to the candidates and to the secretary of the board of education.

The rules and regulations shall be approved by the election commissioner or county clerk prior to use for a caucus.

Sec. 303. Section 79-803.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-803.11-~~ (1) A Class III school district ~~whose with a six-member board of education consists of six members~~ may by resolution provide for an increase in the number of members from six to nine. The board of education shall appoint members to fill the three vacancies thus created in the manner prescribed in section 32-570.

(2) A Class III school district ~~whose with a nine-member board of education consists of nine members~~ may by resolution provide for decreasing the number of members of the board of education from nine to six. When such a decrease is provided, ~~for~~ three of the vacancies which would otherwise occur at the next election shall not be filled.

Sec. 304. Section 79-902.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-902.01-~~ The board of education of a Class IV school district shall consist of seven members and also may include a nonvoting student member or members selected pursuant to section 79-547-02 312 of this act. Voting members shall be elected as provided in section 32-544. Voting members of the board shall ~~enter upon begin~~ the duties of their office on the third Monday of the month in which they are elected.

Sec. 305. Section 79-1003, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1003-~~ The board of education of a Class V school district shall consist of twelve members, ~~one elected from each district pursuant to section 32-545,~~ and also may include a nonvoting student member or members selected pursuant to section 79-547-02 312 of this act. A member of the board shall be elected from each district pursuant to section 32-545, and a student member may be selected pursuant to section 79-547-02. Such elected member shall have been Each elected member shall be a resident of the district for at least six months prior to the election. Each candidate for election to and each member of the board of education shall be a taxpayer in and a resident of the district of such school district as designated by the election commissioner. All persons elected as members of the board of education shall, take and subscribe to the usual oath of office before the first Monday in January following their election, ~~and the or, in the case of a student member, shall take and subscribe to the usual oath of office before the first Monday in January~~ following his or her designation, take and subscribe to the usual oath of office. In case any person so elected fails so to do, his or her election shall be void, and the vacancy thereby occasioned shall be filled by the board.

Sec. 306. Section 79-1103, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1103-~~ The governing body of each Class VI school district shall be a board consisting of a president, a vice president, a secretary, a treasurer, and two other voting members, to be elected as provided in section 32-546, and also may include one or more nonvoting student members selected pursuant to section 79-547-02 312 of this act. The board shall have the same powers and duties as and shall be governed by the provisions of law governing the school boards in Class I and II school districts for purposes authorized by law, except that the board may undertake building projects and expend money from a special fund established pursuant to section 79-547-04 in the same manner and subject to the same restrictions as any Class II, III, IV, or V school district, and for such purposes section 79-606 shall not apply. The fiscal year of Class VI school districts shall be the same as that of Class III school districts. The annual meetings as provided in section 79-501 shall not apply to any Class VI school district.

The board shall elect from its members a president, a vice

president, a secretary, and a treasurer at the first regular board meeting after the newly elected board members have been sworn in and prior to conducting any other business.

## ARTICLE 5

## PART (d) - SCHOOL BOARD MEETINGS &amp; PROCEDURES

Sec. 307. Section 79-439, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-439.~~ In all meetings of ~~any~~ a school board or board of education of a Class I, II, III, or VI school district, a majority of the members shall constitute a quorum for the transaction of business. Regular meetings shall be held on or before the third Monday of every month. All meetings of the board shall be subject to sections 84-1408 to 84-1414. Special meetings may be called by the president or any two members, but all members shall have notice of the time and place of meeting. ~~This section shall not apply to Class IV school districts. Sections 79-439 to 79-443 shall not apply to Class V school districts.~~

Sec. 308. Section 79-805, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-805.~~ The regular meetings of the board of education of a Class III school district shall be held as provided in section 79-439; but special ~~307 of this act.~~ Special meetings may be held as circumstances may demand, and all meetings of the board shall be open to the public. It shall be the duty of the secretary of such board of education, within ten days after any regular or special meeting thereof to publish one time in a legal newspaper published in or of general circulation in such city or village a list of the claims arising on contract or tort, allowed thereat, setting forth the name of the claimant, the amount, and nature of the claim allowed consisting of not more than ten words in stating the nature of such claim. The secretary of the board of education shall likewise cause to be published a concise summary of all other proceedings of such meetings; PROVIDED, publication of such claims or proceedings in a legal newspaper shall not be required unless the same can be done at an expense not exceeding the rates provided by law for the publication of proceedings of county boards.

Sec. 309. Section 79-501, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-501.~~ The annual school meeting of each Class I school district of the first class shall be held at the schoolhouse, if there is one, or at some other suitable place within the district on or before the second Monday of August of each year. The annual school meeting of each Class II school district of the second class shall be held at the schoolhouse on or before the second Monday of August of each year. The officers elected as provided in sections 79-601 and 79-701 ~~155, 221, and 318 of this act~~ shall take possession of the office to which they have been elected at the first meeting of the board following its election, and the school year shall commence with that day. The fiscal year of each such school district shall commence on September 1 of each year and end on August 31 of each year.

Sec. 310. Section 79-502, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-502.~~ Special meetings of Class I and II school districts of the first and second class may be called by the district school board, by majority vote, or by any one of the members of such board, on the written request of legal voters of the district equal in number to at least ten percent of those voting at the last general election for Governor in the district by giving the notice required in section 79-503 ~~311 of this act~~. When so requested, the board or the member receiving such request shall proceed to call the meeting. In all notices of special meetings, the object of the meeting shall be stated, and no business shall be transacted at such meetings, except such as is mentioned in the call.

Sec. 311. Section 79-503, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-503.~~ All notices of annual or special meetings of Class I and II school districts of the first and second class shall state the day, hour, and place of meeting, which place shall be within the district, and shall be given at least five days previous to such meeting by posting up copies thereof of the notice in three public places within the district. ~~No~~ but no annual meeting shall be deemed illegal for want of such notice. No schoolhouse site shall be changed nor taxes voted for building, purchase, or lease of a schoolhouse at any district meeting unless notices shall have been given of such meeting, as above provided in this section, including therein the fact that such subjects will then be considered at such meeting.

Sec. 312. Section 79-547.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-547-02.~~ (1) The school board or board of education or ~~school board~~ of any Class II, III, IV, V, or VI school district may include at least one nonvoting member who is a public high school student from the district. If the board elects to include such a nonvoting student member, the student member shall serve for a term of one year, beginning on September 1, and shall be the student body or student council president, the senior class representative, or a representative elected from and by the entire student body, as designated by the voting members of the board.

(2) Any nonvoting student member of the board ~~shall have~~ has the privilege of attending all open meetings of the board but shall be excluded from executive sessions.

Sec. 313. Section 79-906, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-906.~~ The board of education of a Class IV school district shall hold one or more regular meetings each month, the time of which shall be fixed by the bylaws adopted by such board. Special meetings may be held as circumstances may demand. All meetings of the board shall be subject to sections 84-1408 to 84-1414.

Sec. 314. Section 79-1003.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1003-01.~~ The regular meetings of the board of education of a Class V school district shall be held one or more times each month. Special meetings may be held as circumstances may demand at the call of the president of the board or on petition of a majority of the members ~~thereof~~ of the board. All meetings of the board shall be subject to sections 84-1408 to 84-1414.

Sec. 315. Section 79-1003.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1003-02.~~ A majority of all the members of ~~each~~ a board of education of a Class V school district shall constitute a quorum, but a less number in attendance at any regular meeting shall ~~have~~ and a quorum at any special meeting may ~~have~~ power to compel the attendance of absent members in such manner and under such penalties as each board ~~shall see fit to prescribe~~ prescribes. The absence of any member from four consecutive regular meetings of the board, unless on account of sickness or by consent of the board, shall vacate his or her position on the board, Such ~~which~~ facts shall be passed upon by the board of education and spread upon its records.

Sec. 316. Section 79-1111, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1111.~~ Regular meetings of the board of education of a Class VI school district shall be held on or before the second Monday of each month, but special meetings may be held from time to time, as circumstances may demand. All ~~and all~~ meetings of the board shall be open to the public unless otherwise specially ordered. The secretary of such board of education shall, within ten days after any regular or special meeting thereof, publish in a legal newspaper published in or of general circulation in such district a list of the claims arising on contract or tort allowed at such meeting, setting forth the name of the claimant and the amount and nature of the claim allowed consisting of not more than ten words in stating the nature of such claim, and a concise summary of all other proceedings of such meetings; PROVIDED, publication of such claims or proceedings in a legal newspaper shall not be required unless the same can be done at an expense not exceeding the rates provided by law for the publication of proceedings of county boards.

## ARTICLE 5

### PART (e) - SCHOOL BOARD OFFICERS

Sec. 317. Section 79-516.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-516-06.~~ At the first meeting of each school board elected or board of education elected in a Class II or III school district, and annually thereafter, each the board shall elect from among its members a president and vice president. ~~There~~ The board shall also be elected elect a secretary who need not be a member of the board. If the secretary is a member of the board, an assistant secretary may be named and his or her duties and compensation set by the board.

Sec. 318. Section 79-601, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-601.~~ (1) The qualified voters of every new school district of Class I school district, when assembled pursuant to legal notice, shall elect by ballot from the qualified voters of such district a president for a term of

three years, a secretary for a term of two years, and a treasurer for a term of one year. At the next annual school meeting of the district and regularly thereafter, their ~~several~~ successors shall be elected for the term terms of three years each. All officers elected shall hold their offices until their successors are elected or appointed and qualified.

(2) Officers of existing organized districts of Class I districts, as referred to in subsection (1) of this section, shall continue and discharge the duties of their ~~several~~ offices until the expiration of their terms. Their successors shall be elected for a term terms of three years.

(3) In any district of Class I district which is not within any city or village containing one hundred fifty or more children who are five through twenty years of age, candidates for the school board shall be nominated by petition of at least twenty-five qualified voters of the district, which petition shall be filed with the secretary of the school board not less than fifteen days prior to the date of the annual school meeting. Persons qualified to vote at such meeting, and the election held thereat, election may cast their ballots, written or printed, between the hours of 12 noon and 8 p.m. of such date. Each year two members shall be elected whose term of office shall be for terms of three years and until their successors ~~shall~~ have been elected and qualified. The terms term of members of the school board in such a district shall begin on the second Monday of September, and thereupon on such date the members of the board shall elect a president, a treasurer, and a secretary from their own number. Each such officer shall serve for a term of one year or until his or her successor is elected and qualified.

(4) The president, secretary, and treasurer of a district, referred to in subsection (3) of this section, shall (a) conduct or cause to be conducted the election, referred to in such subsection (3) of this section, and (b) record the names and residences of persons voting thereat and seal, preserve, and deliver the ballots to be publicly opened and canvassed as the first order of business at the convening of the annual meeting at 8 p.m. of such day.

Sec. 319. Section 79-908, Reissue Revised Statutes of Nebraska, is amended to read:

79-908. The board of education of a Class IV school district shall at a regular meeting elect from outside its own members officers including a superintendent, an associate superintendent of instruction, an associate superintendent of business affairs, a school district treasurer, and the number of employees the board of education may deem necessary for the proper conduct of the affairs of the school district at such salaries as the board of education may determine. ~~It~~ The board may contract with them for a term terms not to exceed three years. The election of all officers of the board of education and all elections for filling vacancies on the board of education shall be by ballot. No person shall be declared elected unless he or she receives the vote of a majority of all the members of the board of education.

Sec. 320. Section 79-1004, Reissue Revised Statutes of Nebraska, is amended to read:

79-1004. The members of the board of education of a Class V school district, at their regular meeting in January each year, shall elect a president and vice president from their own members, who shall serve for terms of one year or until their successors are elected and qualified. They The members of the board of education may also select from outside their own members one superintendent of public schools, one secretary, and such other officers as the board may deem necessary for the administration of the affairs of the school district, at such salary as the board may deem just, and in their discretion they may enter into contracts with such officers for terms of not to exceed three years. The board shall have the power to elect its president and vice president and to select its officers and employees in accordance with rules adopted by the board.

Sec. 321. The board of education of a Class VI school district shall elect from its members a president, a vice president, a secretary, and a treasurer at the first regular board meeting after the newly elected board members have been sworn in and prior to conducting any other business.

Sec. 322. Section 79-452, Reissue Revised Statutes of Nebraska, is amended to read:

79-452. The president of the school board or board of education of a Class I, II, III, IV, or VI school district shall: (1) Preside shall have power and it shall be his duty (1) to preside at all meetings of the district; (2) ~~to~~ countersign all orders upon the treasury for money to be disbursed by the district and all warrants of the secretary on the county treasurer for money raised for district purposes or apportioned to the district by the county superintendent; (3) ~~to~~ administer the oath to the secretary and

treasurer of the district when such an oath shall be is required by law in the transaction of the business of the district; and (4) to perform such other duties as may be required of him by law of the president of the board. He shall be or she is entitled to vote on any issue that may come before any meeting. If the president be is absent from any district meeting the qualified voters present may elect a suitable person to preside at the meeting, ~~7 PROVIDED, the provisions of sections 79-452 to 79-467 shall not apply to Class V districts.~~

Sec. 323. Section 79-453, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-453. If at any district meeting, any person shall conduct of a Class I, II, III, IV, or VI school district any person conducts himself or herself in a disorderly manner and, persists in such conduct after notice of by the president or person presiding, shall persist therein, the president or person presiding may order him or her such person to withdraw from the meeting and, on his or her refusal if the person refuses, may order any person or persons to take him or her such person into custody until the meeting shall be is adjourned.~~

Sec. 324. Section 79-454, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-454. Any person who shall refuse refuses to withdraw from such meeting on being so ordered as provided in section 79-453, or who shall willfully disturb 323 of this act or who willfully disturbs such meeting, shall be guilty of a Class V misdemeanor.~~

Sec. 325. Section 79-455, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-455. It shall also be the duty of the The president to of a Class I, II, III, IV, or VI school district shall appear for and on behalf of the district in all suits brought by or against the same district.~~

Sec. 326. Section 79-1004.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1004.01. It shall be the duty of the president to The president of the board of education of a Class V school district shall preside at all meetings of the board, to appoint all committees whose appointment is not otherwise provided for, and to sign all warrants ordered by the board of education to be drawn upon the city treasurer for school money.~~

Sec. 327. Section 79-1007.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1007.05. The For at least ten days prior to an election in a Class V school district, the president of the board of education shall issue publish his or her proclamation to the qualified voters of the school district, such proclamation to be published for at least ten days prior to the election in at least one daily paper newspaper of general circulation in the school district, setting forth the time when and place or places where such election will be held, and a full and complete statement of the officers, bond proposition, or question of expenditure to be voted on at the election.~~

Sec. 328. Section 79-450, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-450. The secretary of a school district shall draw and sign all orders upon the treasurer for all money to be disbursed by the district and all warrants upon the county treasurer for money raised for district purposes, or apportioned to the district by the county superintendent, and shall present the same to the president to be countersigned. No warrant shall be issued until so countersigned. No warrant shall be countersigned by the president until the amount for which the warrant is drawn is written upon its face. Facsimile signatures of board members may be used, and a person or persons delegated by the board may sign and validate all warrants of the district.~~

Sec. 329. Section 79-456, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-456. The secretary of a Class I, II, III, IV, or VI school district shall be clerk of the district school board or board of education and of all district meetings when present, but if he shall not be or she is not present, the qualified voters may appoint a clerk for the time being, who shall certify the proceedings to the clerk to be recorded by him or her.~~

Sec. 330. Section 79-457, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-457. The secretary of a Class I, II, III, IV, or VI school district shall (1) record all proceedings of the district in a book furnished by the district to be kept for that purpose, (2) preserve copies of all reports made to the county superintendent, and (3) safely preserve and keep all books and papers belonging to his the office.~~

Sec. 331. Section 79-458, Reissue Revised Statutes of Nebraska, is

amended to read:

~~79-458.~~ The secretary of a Class I, II, III, IV, or VI school district shall take, or cause to be taken by some person appointed for the purpose by a majority vote of the school board, the census of the school district and then make or cause to be made a list in writing of the names of all the children belonging to such district, from birth through twenty years of age, together with the names of all the taxpayers in the district. A copy of the list, verified by oath of the person taking such census or by affidavit appended to or endorsed thereon on the list, setting forth that it is a correct list of the names of all children belonging in the district from birth through twenty years of age and that it reflects such information as of June 30, shall be returned to the county superintendent.

The board of education of any Class I, II, III, IV, or VI school district may, at its option, establish a permanent and continuing census or enumeration of school children. In the school district the list in writing of the names of the children and taxpayers shall not be required to be reported to the county superintendent, but the names of all of the children belonging to such school district, from birth through twenty years of age, shall instead be kept in a depository maintained by such school district and subject to inspection at all times. Such record shall not or need not include the names of all the taxpayers in the district.

Sec. 332. Section 79-467, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-467.~~ Whenever a secretary or president of the school board or board of education of a Class I, II, III, IV, or VI school district refuses to sign orders on the treasurer, or the treasurer thinks best to refuse the payment of orders drawn upon him or her, the difficulty shall be referred for adjudication to the county superintendent, who shall proceed at once to investigate the matter. If he the county superintendent finds that the officer complained of refuses through contumacy or for insufficient reasons, it shall be the duty of the county superintendent, on behalf of the district, to shall apply to the proper court for a writ of mandamus to compel the officer to perform his or her duty.

Sec. 333. Section 79-552, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-552.~~ It shall be the duty of the The secretary of the school board or board of education of each Class I, II, III, and VI districts school district having an annual budget of one hundred thousand dollars or more shall, within ten days after any regular or special meeting thereof of the board, to publish one time in a legal newspaper published in or of general circulation in such district a list of the claims, arising on contract or tort, allowed thereat, setting at the meeting. The list shall set forth the name of the claimant and the amount and nature of the claim allowed, to consist of not more than ten words in stating the nature of each such claim. The secretary shall likewise cause to be published a concise summary of all other proceedings of such meetings. Publication ~~PROHIBED~~, publication of such claims or proceedings in a legal newspaper shall not be required unless the same publication can be done at an expense not exceeding the rates provided by law for the publication of proceedings of county boards.

Sec. 334. Section 79-703.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-703.01.~~ The secretary of any such school board or board of education, of a Class II or III school district failing or neglecting to comply with the provisions of section 79-703 333 of this act shall be guilty of a Class V misdemeanor. In the discretion of the court, the judgment of conviction may provide for the removal from office of such secretary for such failure or neglect.

Sec. 335. Section 79-909, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-909.~~ (1) It shall be the duty of the The secretary of the board of education of a Class IV school district shall (a) to (1) be present at all meetings of the board of education, (b) to (2) keep an accurate journal of its proceedings, and (c) to (3) perform all such other duties as the board of education may require.

(2) It shall be the duty of the associate superintendent of business affairs to (a) take charge of the books and documents of the board of education; (b) countersign all warrants for school money; (c) apply for and receive school funds from the county treasurer or other persons to whom such funds are payable by law and deposit the same with the treasurer of the board; and (d) perform all such other duties as the board of education may require.

Sec. 336. Section 79-1004.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1004.03-~~ It shall be the duty of the secretary to The secretary of the board of education of a Class V school district shall be present at all meetings of the board, to keep an accurate journal of the proceedings, to take charge of its books and documents, to countersign all warrants for school money drawn upon the county treasurer by order of the board, and to perform such all other duties as the board may require. Before entering into the discharge of his or her duties the secretary of the board shall give bond in the sum of not less than ten thousand dollars, with good and sufficient sureties, and shall take and subscribe an oath or affirmation before a proper officer that he or she will support the Constitution of the State of Nebraska, and faithfully perform the duties of his or her office.

Sec. 337. Section 79-1005, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1005-~~ All accounts of a Class V school district shall be audited by the secretary of the board of education and approved by a committee to be styled named the committee on claims. No expenditures greater than one thousand dollars shall be voted by the board, except in accordance with the provisions of a written contract, nor shall any and no money shall be appropriated out of the school fund except on a recorded affirmative vote of a majority of all the members of the board. All money belonging to the school district, in the hands of the county treasurer as ex officio treasurer of the school district, shall be accounted for and disbursed directly to the board of education.

Sec. 338. Section 79-1104, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1104-~~ The school board in districts of the sixth class a Class VI school district shall select an assistant secretary, who shall not be a member of the board, at a salary to be fixed by the board.

Sec. 339. Section 79-459, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-459-~~ The treasurer of each Class I, II, III, IV, or VI school district shall, within ten days after the his or her election, execute to the county and file with the secretary a bond of not less than five hundred dollars in any instance nor and not more than double the amount of money, as nearly as can be ascertained, to come into his or her hands as treasurer at any one time, with either a personal surety or a surety company or companies of recognized responsibility as surety or sureties, to be approved by the president and secretary, conditioned for the faithful discharge of the duties of his the office. The bond when approved shall be filed by the secretary in the office of the county treasurer of the county wherein in which the school district is situated. If the treasurer shall fail fails to execute such bond, his the office shall be declared vacant by the district board, school board or board of education and the board shall immediately appoint a treasurer, who shall be subject to the same conditions and possess the same powers as if elected to that office. The treasurer shall have no power or authority to withdraw or disburse the money of the district prior to his filing the bond herein provided for in this section.

Sec. 340. Section 79-460, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-460-~~ It shall be the duty of the The treasurer of each district to Class I, II, III, IV, or VI school district shall apply for and receive from the county treasurer all school money apportioned to the district; or collected for the same district by the county treasurer, upon order of the secretary countersigned by the president. The treasurer shall and to pay out the same all money received by him or her, on the order of the secretary countersigned by the president of such district, and all money received by him-

Sec. 341. Section 79-461, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-461-~~ The treasurer of a Class I, II, III, IV, or VI school district shall keep a book, furnished by the county superintendent, in which he the treasurer shall enter all the money received and disbursed by him or her, specifying particularly (1) the source from which money has been received, (2) to what fund it belongs, and (3) the person or persons to whom and the object for which the same has been paid out. He The treasurer shall present to the district, at each annual meeting, a report in writing containing a statement of all money received by him during the preceding year and of the disbursement made by him with the items of such disbursements, and exhibit the vouchers therefor. At the close of the term of his treasurer's term of office, he or she shall settle with the district school board or board of education and shall hand over to his or her successor said the books and all receipts, vouchers, orders, and papers coming into his or her hands as treasurer of the district, together with all money remaining in his or her

hands as such treasurer.

Sec. 342. Section 79-803.05, Reissue Revised Statutes of Nebraska, is amended to read:

79-803.05. In a Class III school district which lies outside of the corporate limits of any city or village, or of which more than one-half is geographically within a city of the metropolitan class, the board of education shall elect one of its members, other than the secretary, as treasurer of the school district and the provisions of section 79-809 343 of this act shall not apply to the selection of a treasurer of such a district. He The treasurer shall prepare and submit in writing a monthly report of the state of its the finances, of the district and pay school money only upon warrants signed by the president of the board or, in his the president's absence, by the vice president, and countersigned by the secretary. He The treasurer shall give a bond payable to the school district in such sum as may be fixed by the board, which bond shall be signed by one or more surety companies of recognized responsibility. The cost of such bond shall be paid by the school district.

Sec. 343. Section 79-809, Reissue Revised Statutes of Nebraska, is amended to read:

79-809. The board of education of a Class III school district may employ a treasurer for such district, who shall be paid a salary, to be fixed by the board, of not to exceed twelve one thousand two hundred dollars per annum. If the board does not employ such a treasurer, the city treasurer or deputy city treasurer of the city which is within such district, or his deputy, shall be ex officio treasurer of the school district. He or she shall attend all meetings of the board when required so to do, prepare and submit in writing a monthly report of the state of its the district's finances, and pay school money only upon warrants signed by the president of the board or, in his the president's absence, by the vice president, and countersigned by the secretary. If the city treasurer or his or her deputy acts as ex officio treasurer of the school district, he or she shall be paid for such services by the school district a sum to be fixed by the board. The treasurer of such district, or the city treasurer or his deputy city treasurer acting as ex officio treasurer, whichever the case may be, shall give a bond payable to the county in such sum as may be fixed by the board of education, which bond shall be signed by one or more surety companies of recognized responsibility. The cost of such bond shall be paid by the school district.

Sec. 344. Section 79-911, Reissue Revised Statutes of Nebraska, is amended to read:

79-911. It shall be the duty of the school district treasurer to The treasurer of a Class IV school district shall (1) attend all meetings of the board of education when required to do so by the board of education, (2) prepare and submit in writing a monthly report of the state of its finances the finances of the district. (3) pay out school money only upon warrants signed by the president or vice president and countersigned by the associate superintendent of business affairs, and (4) give a bond payable to the school district in such a sum as may be a sum fixed by the board of education.

Sec. 345. Section 79-1004.04, Reissue Revised Statutes of Nebraska, is amended to read:

79-1004.04. The county treasurer of the county in which such city a city of the metropolitan class is located shall be ex officio treasurer of the board of education of a Class V school district. He The treasurer shall collect all taxes of the school district, and his or her powers with respect thereto to such taxes shall be the same as his or her powers with respect to the collection of county taxes. He The treasurer shall attend all meetings of the board of education of the Class V district when required to do so, shall prepare and submit in writing a monthly report of the state of its the district's finances, and shall pay school money only upon a warrant signed by the president, or in his the president's absence by the vice president, and countersigned by the secretary. He The treasurer shall give bond, payable to the board of education in such amount as may be required of him by the board of education, but in no event to be less than two hundred thousand dollars, conditioned for the faithful discharge of his or her duties as treasurer of the school district, for the safekeeping and proper disbursement of all funds and money of the school district collected or received by him or her, and for all taxes not collected by him whenever such taxes or assessments remain uncollected by him or her by reason of any neglect of duty, want of diligence, or failure on his or her part to comply with the law relating to the collection thereof. Such bond shall be signed by one or more surety companies of recognized responsibility, to be approved by the board of education. The cost of the bond shall be paid by the school district. Such bond may be enlarged at any time the board of education may deem an enlargement or additional bond necessary.

Sec. 346. Section 79-1004.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1004-02-~~ It shall be the duty of the vice president to The vice president of the board of education of a Class V school district shall perform all the duties of the president in case of his the president's absence or disability.

Sec. 347. Section 79-519, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-519-~~ The school board in a Class II school district or the board of education in a Class III, IV, or VI school district may also elect at any regular meeting one superintendent of public instruction with such salary as the board may deem best, and may enter into contract with him or her at its discretion, for a term not to exceed three years.

Sec. 348. The associate superintendent of business affairs of a Class IV school district shall (1) take charge of the books and documents of the board of education, (2) countersign all warrants for school money, (3) apply for and receive school funds from the county treasurer or other persons to whom such funds are payable by law and deposit the funds with the treasurer of the board, and (4) perform all such other duties as the board may require.

Sec. 349. Section 79-910, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-910-~~ Before entering upon the discharge of his or her duties, the associate superintendent of business affairs of a Class IV school district shall give a bond payable to the school district in such sum as the board of education may fix, but not less than five thousand dollars, and shall take and subscribe the usual oath of office. The board of education may require any other officer or employee to give a bond in such an amount as it may deem necessary. The cost of all bonds shall be paid by the school district and shall be approved by the board of education.

Sec. 350. Section 79-912, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-912-~~ All accounts of a Class IV school district shall be audited by the associate superintendent of business affairs, approved by the chairperson of the board of education, and countersigned by one other member of the board of education. No expenditure greater than one thousand dollars shall be voted by the board of education except in accordance with the provisions of a written contract. No money shall be appropriated out of school funds except on a recorded affirmative vote of a majority of all the members of the board of education.

ARTICLE 5

PART (f) - PROVIDING EDUCATION OUTSIDE THE DISTRICT

Sec. 351. Section 79-486, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-486-~~ (1) The governing board school board or board of education of any public school district in this state, when authorized by a majority of the votes cast at any annual or special meeting, shall (a) contract with the board of any neighboring public school district or districts for the instruction of all or any part of the pupils residing in the first named district in the school or schools maintained by the neighboring public school district or districts for a period of time not to exceed three years and (b) make provision for the transportation of such pupils to the school or schools of the neighboring public school district or districts.

(2) The governing board school board or board of education of any public school district may also, when petitioned to do so by at least two-thirds of the parents residing in the district having children of school age who will attend school under the contract plan, (a) contract with the board of any neighboring public school district or districts for the instruction of all or any part of the pupils residing in the first named district in the school or schools maintained by the neighboring public school district or districts for a period of time not to exceed three years and (b) make provision for the transportation of such pupils to the school or schools of the neighboring public school district or districts.

(3) The contract price for instruction referred to in subsections (1) and (2) of this section shall be the cost per pupil for the immediately preceding school year or the current year, whichever appears more practical as determined by the governing board of the district which accepts the pupils for instruction. The cost per pupil shall be determined by dividing the sum of the operational cost and debt service expense of the accepting district, except retirement of debt principal, plus three percent of the insurable or present value of the school plant and equipment of the accepting district, by

the average daily membership of pupils in the accepting district. Payment of the contract price shall be made in equal installments at the beginning of the first and second semesters.

(4) All the contracts referred to in subsections (1) and (2) of this section shall be in writing, and copies of all such contracts shall be filed in the office of the county superintendent on or before August 15 of each year. The form of such contracts shall be prescribed by the Commissioner of Education. School districts thus providing instruction for their children in neighboring districts shall be considered as maintaining a school as required by law. The teacher of the school providing the instruction shall keep a separate record of the attendance of all pupils from the first named district and make a separate report to the secretary of that district. The school board of every sending district contracting under this section shall enter into contracts with school districts of the choice of the parents of the children to be educated under the contract plan. Any school district failing to comply with this section shall not be paid any funds from the state apportionment of school funds while such violation continues.

(5) The county superintendent may dissolve any district (a) failing to comply with this section, (b) in which the votes cast at an annual or special election on the question of contracting with a neighboring district are evenly divided, or (c) in which the governing body of the district is evenly divided in its vote on the question of contracting pursuant to subsection (2) of this section. The county superintendent shall dissolve and attach to a neighboring district or districts any school district which, for five consecutive years, contracts for the instruction of its pupils, except that when such dissolution will create extreme hardships on the pupils or the district affected, the State Board of Education may, on application by the school board or board of education of the district and the recommendation of the county superintendent of the county in which the district is located, waive the requirements of this subsection. The dissolution of any school district pursuant to this section shall be effected in the manner prescribed in section 79-420 247 of this act. School districts that have contracted for instruction for two or more consecutive years shall, before reopening the schoolhouse within the district, have an enrollment of at least five pupils whose parents or legal guardians are legal voters of the school district and shall apply to the county superintendent for approval to reopen that schoolhouse for school use. The county superintendent shall, before granting that approval, personally inspect the school building and toilets and approve them as being safe, clean, and sanitary. He or she shall also inspect the supplies, equipment, and furnishings and approve them as being adequate for proper instruction.

Sec. 352. Section 79-4,106.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,106.01-~~ In counties which are contiguous to the boundary line of this state, the parent or legal guardian of any pupil authorized or required to attend any of grades kindergarten through twelve may apply for authority for such pupil to attend school in a district in an adjoining state. Such application shall be made on or before August 15 of each year to the school board or board of education of the school district in which the parent or guardian resides, and shall specify the district in the adjoining state to which the parent or guardian seeks to send the pupil. The application also shall state whether any of the following conditions exists: (1) The pupil lives nearer an attendance center in the proposed receiving district than in the district of residence; (2) natural barriers such as rivers cause transportation difficulties within the district of residence; (3) road conditions from the pupil's home to the school in the proposed receiving district are better than to the school in the district of residence; (4) travel time would be less to the school in the proposed receiving district; or (5) educational advantages for the pupil exist in the proposed receiving district.

Sec. 353. Section 79-4,106.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,106.02-~~ Upon receipt of an application pursuant to section 79-4,106.01 352 of this act, the school board or board of education shall inquire of the proposed receiving district if it is willing to receive the pupil. If the proposed receiving district is willing to do so, and the school which the pupil would attend is accredited, and the conditions of section 79-4,106.03 354 of this act have been met, the board of education may authorize such attendance.

Sec. 354. Section 79-4,106.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,106.03-~~ No application for attendance of a pupil in a school

of another state pursuant to sections ~~79-4,106-01 to 79-4,106-05~~ 352 to 356 of this act shall be approved unless such state has in force an act which the State Board of Education determines to be similar to the provisions of sections ~~79-4,106-01 to 79-4,106-05~~ such sections.

Sec. 355. Section 79-4,106.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,106-04.~~ When any school board or board of education authorizes attendance at a school in an adjoining state pursuant to sections ~~79-4,106-01 to 79-4,106-05~~ 352 to 356 of this act, the sending district shall pay to the receiving district tuition for each pupil for each day the pupil is actually enrolled in the receiving district up to one hundred eighty-five days per year. The daily rate of tuition shall be equal to the amount of the actual per pupil per day operating expense of the receiving district for the preceding school year.

Sec. 356. Section 79-4,106.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,106-05.~~ The State Board of Education shall have access to the records of the receiving district in an adjoining state in order to verify the amount charged by the receiving district, and the state board of education of an adjoining state sending students to a district in this state shall have similar access to the records of a receiving district in this state. When necessary, the Commissioner of Education shall confer with the head of the department of education of an adjoining state to establish uniform methods of determining costs pursuant to sections ~~79-4,106-01 to 79-4,106-05~~ 352 to 356 of this act. The Commissioner of Education also may prescribe forms to be used for applications pursuant to section ~~79-4,106-01,~~ 352 of this act and shall assist ~~local school boards and~~ boards of education in carrying out the provisions of sections ~~79-4,106-01 to 79-4,106-05~~ 352 to 356 of this act.

Sec. 357. Section 79-516.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-516-01.~~ The school board or board of education of any Class II or III school district of the second or third class may, in its discretion, pay the regular school tuition for any pupil residing in such school district and attending a school outside such school district when, in the opinion of ~~said board of education the board,~~ the best interests of ~~said pupil or of said the pupil or~~ the school district may so require.

Sec. 358. Section 79-544, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-544.~~ If the board of education of a Class III, IV, or V school district ~~shall find~~ finds it desirable that children of school age or any grade or grades thereof residing on federal property situated in the vicinity of a ~~metropolitan city of the metropolitan class~~ be given instruction outside the boundaries of such district of the character provided by law for children within the district, under the direction and control of the board of education and that the same is not detrimental to the interests of the school district, the board of education may enter into a contract with the federal government or any agency thereof to provide supervisory services in the construction of school facilities and to maintain and operate schools for the children of residents of such federal installations.

Sec. 359. Section 79-545, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-545.~~ The provisions of giving instructions outside a Class III, IV, or V school district as provided in section ~~79-544,~~ 358 of this act shall not apply where existing facilities are now available.

Sec. 360. Section 79-550, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-550.~~ The board of education of any Class VI school district formerly organized as a rural high school district or the school board of any Class II district may pay tuition based on the actual per pupil cost of the receiving district for any junior high, junior-senior high, or senior high school pupil residing in the district to attend an accredited junior high, junior-senior high, or senior high school outside such district when such facilities are located closer to the residence of the pupil than the school maintained by such district, and when in the opinion of the board the best interest of such pupil or such school district may so require.

Sec. 361. Section 79-1103.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1103-05.~~ (1) When ~~application is made in writing~~ by the parent or guardian of a student subject to the provisions of this section applies in writing, the board of education of any Class VI school district maintaining an accredited high school may pay the regular high school tuition or such portion thereof as may be agreed upon by the respective governing bodies for any

student residing in such school district and attending a school district outside this state when such high school outside this state is located at least ten miles closer to the place of residence of such student than the school maintained by such Class VI school district and when, in the opinion of the board of education, the best interest of such student or such Class VI school district may so require.

(2) Any parent or guardian of such student who is aggrieved by a decision of the board of education may appeal such decision to the State Board of Education, the decision of which shall be binding.

#### ARTICLE 6 - SCHOOL TRANSPORTATION

Sec. 362. Section 79-487, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-487-~~ The school board or board of education of any public school district may, when authorized by a majority vote of the members of such board, purchase out of the general fund of the district a school bus or buses for the purpose of providing transportation facilities for school children to and from school and to and from all school-related activities. The school board or board of education of any public school district providing such transportation facilities for children attending public schools shall also provide transportation without cost for children who attend nonprofit private schools which are approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section 79-328 146 of this act. Such transportation shall be provided for only such children attending nonprofit private schools who reside in a district which provides transportation to public school students, and such transportation shall extend only from some point on the regular public school route nearest or most easily accessible to their homes to and from a point on the regular public school route nearest or most easily accessible to the school or schools attended by such children. The governing body of such nonprofit private school, on a form to be provided by the State Department of Education, shall certify to the public school district the names, addresses, and days of school attendance of children transported and such other information useful in operating the transportation facility as may be required by rules established by the State Board of Education. Transportation shall be provided for nonprofit private school children only at times when transportation is being provided for public school children.

The school board or board of education of any public school district may enter into a contract with a municipality or county pursuant to section 13-1208.

Sec. 363. Section 79-488, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-488-~~ All school boards and boards of education, the governing authority authorities of any nonpublic school schools in this state, and all independent contractors who or which provide student transportation services for such boards of education and governing boards authorities and for military installations shall cause all pupil transportation vehicles used for the transportation of students to be inspected before school opens in the fall and each eighty days during that part of the year when school is in session by a motor vehicle mechanic appointed by the board of education or governing authority having jurisdiction over such students, except that any pupil transportation vehicle that has been inspected under rules and regulations of the Public Service Commission shall be exempted from the provisions of this section. The mechanic shall thoroughly inspect every vehicle used for the transportation of students as to brakes, lights, windshield wipers, window glass, tires, doors, heaters, defrosting equipment, steering gear, exhaust system, and the mechanical condition of every part of such pupil transportation vehicle to ensure compliance with the minimum allowable safety criteria established pursuant to section 368 of this act and subdivision (13) of section 79-328 146 of this act. Within five days after such inspection, the mechanic shall make a report of his or her inspection in writing on regular forms provided by the State Department of Education which shall show if the vehicle met the minimum allowable safety criteria for use. Any item not meeting such criteria shall be brought into compliance prior to the vehicle being used to transport students. One copy of the mechanic's report shall be filed with the board of education or governing authority and, if the school contracts with an independent contractor to provide transportation services, one copy with the independent contractor. The chief administrative officer of each school district shall annually certify, by a written verification statement, to the State Department of Education that the inspections required pursuant to this section have been performed. Such

verification statement shall be sent to the department no later than July 31. The chief administrative officer or chairperson of the board, ~~of education,~~ the governing authority, or the independent contractor shall, upon request, make available the mechanic's inspection reports for each vehicle used for the transportation of students to the Nebraska State Patrol inspector when the annual school vehicle safety equipment inspections are conducted.

All such boards, ~~of education,~~ governing authorities, and independent contractors shall also cause such pupil transportation vehicles used for the transportation of students to be safety inspected at least once during each calendar year by the Nebraska State Patrol or the patrol's carrier enforcement division to ensure compliance with the minimum allowable safety criteria prescribed in section 368 of this act and subdivision (13) of section ~~79-328~~ 146 of this act. Upon successful completion of such inspection, an approval sticker shall be placed by the inspector on the lower inside corner of the driver's side windshield, and within five days after such inspection, the Nebraska State Patrol or the division shall make a report of its inspection in writing and file one copy of such report with the board, ~~the~~ of education, governing authority, or ~~the~~ independent contractor and file one copy with the State Department of Education. If any inspection required by the provisions of this section discloses any equipment not in compliance with the minimum allowable safety criteria, the pupil transportation vehicle shall immediately be removed from service until the defects are corrected to the satisfaction of a Nebraska State Patrol or division inspector.

All such boards, ~~of education,~~ governing authorities, and independent contractors shall also cause each pupil transportation vehicle used for the transportation of students to be inspected by the Nebraska State Patrol or the patrol's carrier enforcement division for compliance with minimum equipment standards established pursuant to section 368 of this act and subdivision (13) of section ~~79-328~~ 146 of this act prior to being placed into service for the first time in the State of Nebraska. After such inspection a one-time minimum equipment standards sticker shall be placed by the inspector on the lower left-hand inside corner of the windshield if the pupil transportation vehicle meets such minimum standards. If the inspection reveals any equipment on the pupil transportation vehicle that is not in compliance with such minimum equipment standards, the vehicle shall not be put into service until such deficiencies are corrected and a minimum equipment standards sticker is placed on such vehicle. Failure to remove pupil transportation vehicles from service due to noncompliance with minimum safety or minimum equipment standards shall constitute a Class V misdemeanor, and conviction for such offense shall be grounds for dismissal of any employee.

In addition to the inspection requirements prescribed in this section, the driver of each pupil transportation vehicle shall make daily inspections of such vehicle to ensure that all lights and equipment are fully operational or repaired before his or her daily route. Reports of such daily inspections shall be kept by the driver in the vehicle and filed weekly with the head mechanic or administrator in charge of the transportation system. If the inspection reveals any significant defect in the lights or equipment, the driver shall immediately report the defect to the head mechanic or administrator in charge of the transportation system.

Sec. 364. Section 79-488.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-488-01-~~ Any person who violates any provision of section ~~79-488~~ 363 of this act or who drives, moves, or causes or knowingly permits to be moved on any highway any vehicle or vehicles which exceed the limitations as to the safety features provided in such section for which a penalty is not elsewhere provided shall be guilty of a Class III misdemeanor.

For purposes of this section, highway shall have the meaning provided in section 60-624.

Sec. 365. Section 79-488.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-488-03-~~ The Department of Roads shall post on state highways signs reading: Unlawful to pass school buses stopped to load or unload children. These signs shall be adequate in size and number to properly inform the public. ~~School districts may~~ PROVIDED, that school districts are hereby authorized to obtain and post such signs on other bus route roads upon the approval of appropriate county officials. The ~~AND PROVIDED FURTHER, that the Department of Roads is hereby authorized to may furnish such signs at cost to school districts.~~

Sec. 366. Section 79-488.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-488-04-~~ Except as otherwise provided in this section, ~~the any~~ school board ~~of any school district or board of education~~ may authorize the

use of buses belonging to ~~such the school~~ district for the transportation of school children residing outside such district. A fee sufficient to pay the additional costs of such transportation shall be charged each person so transported. The ~~school~~ board shall prepare a schedule of all such fees charged, and a copy of such schedule shall be filed in the office of the county superintendent of schools for the county in which such district is maintained. This section shall not apply to an agreement for transportation entered into pursuant to section 79-3410 ~~45 of this act~~.

Sec. 367. Section 79-488.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-488-05-~~ When any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for transportation of children is sold and used for any other purpose than for transportation of school children, such vehicle shall be painted a distinct color other than that prescribed by the State Board of Education and the stop arms and system of alternately flashing warning signal lights on such vehicle shall be removed. It shall be the purchaser's responsibility to see that the modifications required by this section are made. Any person violating this section shall be guilty of a Class V misdemeanor and, upon conviction thereof, be fined not less than twenty-five dollars nor more than one hundred dollars.

Sec. 368. The State Board of Education shall adopt and promulgate rules and regulations for operators of pupil transportation vehicles as to physical and mental qualities, driving skills and practices, and knowledge of traffic laws, rules, and regulations which relate to school bus transportation. Such traffic rules and regulations shall by reference be made a part of any such contract with a school district. Any officer or employee of any school district who violates any of the traffic rules or regulations or fails to include obligations to comply with the traffic rules and regulations in any contract executed by him or her on behalf of a school district shall be guilty of a Class V misdemeanor and shall, upon conviction thereof, be subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of such traffic rules and regulations shall be guilty of breach of contract, and such contract shall be canceled after notice and hearing by the responsible officers of such school district.

Sec. 369. Section 79-488.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-488-06-~~ (1) Any person operating a school bus, including any school bus which transports pupils by direct contract with the pupils or their parents and not owned by or under contract with the school district or nonpublic school, before the opening of a school term or before operating a school bus, shall each year submit himself or herself to (a) an examination, to be conducted by a driver's license examiner of the Department of Motor Vehicles, to determine his or her qualifications to operate such bus and (b) an examination by a licensed physician to determine whether or not he or she meets the physical and mental standards established pursuant to subdivision (13) of section 79-328 section 368 of this act and shall furnish to the school board or board of education or the governing authority of a nonpublic school and to the Director of Motor Vehicles a written report of each such examination on standard forms prescribed by the State Department of Education, signed by the person conducting the same, showing that he or she is qualified to operate a school bus and that he or she meets the physical and mental standards. If the Director of Motor Vehicles determines that the person is so qualified and meets such standards, a special school bus operator's permit in such form as the director prescribes shall be issued to him or her. No contract shall be entered into until such permit has been received and exhibited to the school board or board of education or the governing authority of a nonpublic school. The holder of such permit shall have it on his or her person at all times while operating a school bus.

(2) It shall be unlawful for any person operating a school bus to be or remain on duty for a longer period than sixteen consecutive hours. When any person operating a bus has been continuously on duty for sixteen hours, he or she shall be relieved and not be permitted or required to again go on duty without having at least ten consecutive hours' rest off duty, and no such operator, who has been on duty sixteen hours in the aggregate in any twenty-four-hour period, shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty.

(3) Any person violating this section shall be guilty of a Class V misdemeanor. The His or her contract with the school district shall be canceled as provided in subdivision (13) of section 79-328 section 368 of this act.

Sec. 370. Section 79-488.07, Reissue Revised Statutes of Nebraska,

is amended to read:

~~79-488-07-~~ (1) ~~It shall be the duty of the~~ The school board or board of education, after consultation with a member of the Nebraska State Patrol, ~~to shall~~ determine the number of passengers that may be safely transported in each bus.

(2) ~~(a) Any~~ It shall be the responsibility of any company or agency that provides transportation of pupils by school bus and contracts directly with the pupils or their parents, ~~of~~ (b) the school board or board of education of the public schools, and ~~of~~ (c) the governing authority of any private, denominational, or parochial school in this state to shall provide, at least twice during each school year to each pupil who is transported in a school bus, instruction in safe riding practice and participation in emergency evacuation drills.

(3) The operator of a school bus equipped with an occupant protection system as defined in section 60-6,265 shall ~~be required to wear such system whenever the vehicle is in motion.~~

Sec. 371. Section 79-489, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-489-~~ When a school board ~~of board or or board of~~ education employs a driver to transport the pupils from their homes to the school and return and to and from other school-sponsored activities by any means, the board shall purchase a liability insurance policy in a limit of not less than fifty thousand dollars to cover the bodily injuries of one person, one hundred thousand dollars to cover bodily injuries to more than one person in the same accident, and ten thousand dollars to cover property damage, the premium on which shall be paid out of the school district treasury. Such policy shall be conditioned for the payment of any and all damages on account of bodily injury or death, or injury to or destruction of property that may accrue to any person or persons by reason of any negligence or carelessness in transporting pupils from their homes to school and return and to and from other school-sponsored activities. Such policy may, in the discretion of the board, contain a deductible provision for up to one thousand dollars of any claim, in which event the school district shall be considered a self-insurer for that amount.

Sec. 372. Section 79-490, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-490-~~ (1) The school board or board of education shall either provide free transportation or pay an allowance for transportation in lieu of free transportation as follows:

(a) When a student attends an elementary school in his or her own district and lives more than four miles from the public schoolhouse in such district;

(b) When a student is required to attend an elementary school outside of his or her own district and lives more than four miles from such elementary school;

(c) When a student attends a secondary school in his or her own Class II or Class III school district and lives more than four miles from the public schoolhouse; and

(d) When a student, other than a student in grades ten through twelve in a Class V district, attends an elementary or junior high school in his or her own Class V district and lives more than four miles from the public schoolhouse in such district.

(2) The transportation allowance which may be paid to the parent, custodial parent, or guardian of students qualifying for free transportation pursuant to subsection (1) of this section shall equal two hundred eighty-five percent of the mileage rate provided in section 81-1176, multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the schoolhouse exceeds three miles.

(3) Whenever students from more than one family travel to school in the same vehicle, the transportation allowance prescribed in subsection (2) of this section shall be payable as follows:

(a) To the parent, custodial parent, or guardian providing transportation for students from other families, one hundred percent of the amount prescribed in subsection (2) of this section for the transportation of students of such parent's, custodial parent's, or guardian's own family and an additional five percent for students of each other family not to exceed a maximum of one hundred twenty-five percent of the amount determined pursuant to subsection (2) of this section; and

(b) To the parent, custodial parent, or guardian not providing transportation for students of other families, two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile

actually and necessarily traveled, on each day of attendance, from the residence of the student to the pick-up point at which students transfer to the vehicle of a parent, custodial parent, or guardian described in subdivision (a) of this subsection.

(4) The school board may authorize school-provided transportation to any student who does not qualify under the mileage requirements of subsection (1) of this section and may charge a fee to the parent or guardian of the student for such service. An affiliated high school district may provide free transportation or pay the allowance described in this section for high school students residing in an affiliated Class I district. No transportation payments shall be made to a family for mileage not actually traveled by such family. The number of days the student has attended school shall be reported monthly by the teacher to the school board of such public school district.

(5) No more than one allowance shall be made to a family irrespective of the number of students in a family being transported to school. If a family resides in a Class I district which is part of a Class VI district and has students enrolled in any grade of grades kindergarten through six in the Class I district and in any grade of grades seven and eight in the Class VI district, such family shall receive not more than one allowance for the distance actually traveled when both districts are on the same direct travel route with one district being located a greater distance from the residence than the other. In such cases, the travel allowance shall be prorated among the school districts involved. Unless the parties involved can mutually agree, the county superintendent of the district in which the school attended is located shall determine the pro rata share to be paid by each district. In the event if the schools attended are in different counties, the respective county superintendents shall determine the proper pro rata amount each district shall pay.

(6) No student shall be exempt from school attendance on account of distance from the public schoolhouse.

Sec. 373. Section 79-491, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-491-~~ All claims for transportation allowance under section 372 of this act shall be filed for payment monthly. No action for recovery on any claim for transportation allowance filed with the secretary of the school board or board of education shall be brought after twelve months from the last day of any month of actual attendance for which attendance is claimed. All claims shall show the names of the students and the dates of the trips for which the allowance is claimed, and shall be signed by the claimant.

Sec. 374. Section 79-492, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-492-~~ (1) When a student or students, whose family would otherwise be eligible for the transportation allowance provided in section ~~79-490,~~ 372 of this act reside temporarily for school purposes within four miles of the schoolhouse, the family of such student or students shall be paid two hundred eighty-five percent of the mileage rate provided in section 81-1176 for each mile actually and necessarily traveled by which the distance traveled one way from the residence of such family to the temporary residence exceeds three miles.

(2) When (a) a student or students, whose family would otherwise be eligible for the transportation allowance provided in section 79-490, 372 of this act attend school in an adjacent school district due to convenience of the family, and (b) the school district of residence pays tuition on behalf of such student or students pursuant to section 79-486 ~~351 of this act.~~ there shall also be paid by such school district of residence a transportation allowance equal to two hundred eighty-five percent of the mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student or students to the schoolhouse in the adjacent school district exceeds three miles.

#### ARTICLE 7 - ACCREDITATION, CURRICULUM, AND INSTRUCTION PART (a) - MISSION AND INTENT FOR THE PUBLIC SCHOOLS

Sec. 375. Section 79-4,140.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140.01-~~ The Legislature hereby finds and declares that the mission of the State of Nebraska, through its public school system, is to:

(1) Offer each individual the opportunity to develop competence in the basic skills of communications, computations, and knowledge of basic facts concerning the environment, history, and society;

(2) Offer each individual the opportunity to develop higher order

thinking and problem-solving skills by means of adequate preparation in mathematics, science, the social sciences, and foreign languages and through by means of appropriate and progressive use of technology;

(3) Instill in each individual the ability and desire to continue learning throughout his or her life;

(4) Encourage knowledge and understanding of political society and democracy in order to foster active participation; ~~therein~~;

(5) Encourage the creative potential of each individual through exposure to the fine arts and humanities;

(6) Encourage a basic understanding of and aid the development of good health habits; and

(7) Offer each individual the opportunity for career exploration and awareness.

Sec. 376. Section 79-4,140.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140.02-~~ (1) The Legislature recognizes that education as an investment in human resources is fundamental to the quality of life and economic development of Nebraskans. The Legislature further recognizes that public education faces ever growing challenges in an era of accelerated change, sophisticated information systems, high technology, and global markets. ~~Therefore, it~~ It is the intent of the Legislature to join with local governing bodies in a strong and ongoing partnership to further advance the quality and responsiveness of Nebraska's education system.

(2) It is the intent of the Legislature to encourage and support all public schools in this state in order to carry out the state's mission to promote quality education as described in section 79-4,140.01 375 of this act. Attracting and retaining highly qualified instructors in order to foster and improve a student's learning experience is a key factor in quality education. The Legislature intends to foster high standards of performance for teachers, students, administrators, and programs of instruction in the public schools so that each person of school age shall have the opportunity to receive a quality education regardless of the size, wealth, or geographic location of the school district in which such person resides.

(3) The Legislature intends that the schools meet the individual needs and develop the particular skills of all young Nebraskans. The Legislature further intends that all persons who graduate from Nebraska high schools possess certain minimum levels of knowledge, skills, and understanding.

(4) The Legislature recognizes that the resources of the state should be used efficiently to support the public school system of this state. The Legislature intends to foster, encourage, and, where necessary, mandate the cooperation of all public education service providers, including public school districts, educational service units, and the State Department of Education, in order to achieve a quality education system.

## ARTICLE 7

### PART (b) - ACCREDITATION

Sec. 377. Section 79-4,140.16, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140.16-~~ (1) To ensure both equality of opportunity and quality of programs offered, all public schools in the state shall be required to meet quality and performance-based approval or accreditation standards as prescribed by the State Board of Education. The board shall establish a core curriculum standard, which shall include multicultural education and vocational education courses, for all public schools in the state. Accreditation and approval standards shall be designed to assure effective schooling and quality of instructional programs regardless of school size, wealth, or geographic location. The board shall recognize and encourage the maximum use of cooperative programs and may provide for approval or accreditation of programs on a cooperative basis, including the sharing of administrative and instructional staff, between school districts for the purpose of meeting the approval and accreditation requirements established pursuant to this section and section 79-328 146 of this act.

(2) The Commissioner of Education shall appoint an accreditation committee which shall be representative of the educational institutions and agencies of the state and shall include as a member the director of admissions of the University of Nebraska.

(3) The accreditation committee shall be responsible for: (a) Recommending appropriate standards and policies with respect to the accreditation and classification of schools; and (b) making recommendations annually to the commissioner relative to the accreditation and classification

of individual schools. No school shall be considered for accreditation status which has not first fulfilled all requirements for an approved school.

(4) By school year 1993-94 all public schools in the state shall be accredited.

(5) It is the intent of the Legislature that all public school students shall have access to all educational services required of accredited schools. Such services may be provided through cooperative programs or alternative methods of delivery.

Sec. 378. Section 79-4,140.15, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140.15.~~ Any ~~local~~ school board or board of education of a school district or any governing authority of a private school may establish alternating biennial secondary course offerings, not to exceed one course in each of four subject fields as designated by such ~~school~~ board or governing authority, as part of the total instructional units provided each school term for the purpose of meeting minimum annual criteria for accreditation under sections 79-328 and ~~79-4,140.16~~ 146 and 377 of this act. Reporting of biennial course offerings which are to receive annual instructional unit credit in meeting accreditation standards shall be on forms prescribed by the State Department of Education.

#### ARTICLE 7

##### PART (c) - CURRICULUM AND INSTRUCTION REQUIREMENTS

Sec. 379. Section 79-4,122, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,122.~~ For the purpose of creating public sentiment and calling public attention to the great damage caused both to life and property by fire, the Friday before Fire Recognition Day shall be designated and known as State Fire Day. This day State Fire Day shall be observed by the public, private, and parochial schools of the state with exercises appropriate to the subject and the day. The second Saturday in May shall be designated and known as Fire Recognition Day, and exercises appropriate for the subject and day may be exercised by any fire department.

Sec. 380. Section 79-4,123, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,123.~~ In addition to any required monthly fire drill, every public, private, denominational, or parochial school shall provide regular periods of instruction in the subject of fire dangers and in methods of fire prevention.

Sec. 381. Section 79-4,128.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,128.01.~~ The flags of the United States of America and of the State of Nebraska shall be prominently displayed on the school grounds of every public school in the state on each day that such school is in session, in accordance with the standards prescribed for the display of the flag of the United States of America. For the purposes of ~~sections 79-4,128.01 and 79-4,128.02~~ this section and section 382 of this act. public school shall mean all institutions of learning supported in whole or in part by public funds, including those providing ~~post-high-school~~ postsecondary education.

Sec. 382. Section 79-4,128.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,128.02.~~ The governing body of each school shall provide suitable flags and flagstuffs to carry out the provisions of ~~sections 79-4,128.01 and 79-4,128.02~~ this section and section 381 of this act. and the cost of such flags and flagstuffs shall be paid from the general operating funds of each school.

Sec. 383. Section 79-4,139, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,139.~~ There may be held at the county fair or other place in each county, under the supervision and direction of the county superintendent and county board of commissioners or county board of supervisors, an exhibit of school work done in each school district of ~~said~~ the county during the current school year. The nature and character of the exhibit shall be determined by the county superintendent. The county superintendent may annually offer and award premiums intended to stimulate the interest in school affairs. A list of premiums to be awarded shall be mailed by the county superintendent to the teacher, principal, or superintendent of each public school in each school district in the county on or before January 15 of each year in which an exhibit shall be held.

Sec. 384. Section 79-4,140.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-06-~~ The State Board of Education shall, when funds are appropriated by the Legislature for such program, establish and the State Department of Education shall administer a scientist-in-residence program in the public schools of the state for the purpose of encouraging persons with expertise in the sciences to make special presentations, provide direct educational services to students, and provide guidance to teachers.

The scientist-in-residence program shall allow for specialists in the social, physical, or life sciences or in advanced technology to participate as teacher-partners in a school, school district, number of school districts, or educational service unit. A residency may be as short as one week and as long as one semester. Any residency may be extended upon agreement by the scientist-in-residence, the State Department of Education, and the school district, school districts, or educational service unit. The department shall adopt and promulgate rules and regulations necessary for the establishment and administration of the scientist-in-residence program. Such rules and regulations shall include, but not be limited to, provisions regarding the application for scientist-in-residence status, the term of residencies, and evaluation of the program. Nothing in this section shall ~~This section does not~~ prohibit funding of the scientist-in-residence program by private sources.

Sec. 385. Section 79-4,140.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-07-~~ The State Department of Education shall, when funds are appropriated by the Legislature to carry out this section, identify exemplary curriculum materials for use in Nebraska schools. Such materials may include innovative programs, supplementary materials, unique approaches to presenting existing materials, and materials which make use of new technological developments. All such materials shall have a demonstrable capacity to improve the quality and effectiveness of instruction and shall have been developed in Nebraska or, if developed outside Nebraska, shall have been adapted for use in Nebraska. In order to make such materials fully available to Nebraska schools, the State Department of Education shall establish a dissemination program which shall include summer institutes conducted by teacher education institutions in the state. Dissemination program activities may include:

- (1) Grants to teachers who ~~developed or adapted~~ develop or adapt exemplary curriculum materials;
- (2) Grants to teacher education institutions for the administrative costs of offering institutes; and
- (3) Reproducing and delivering trial materials to schools.

Sec. 386. Section 79-4,140.17, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-17-~~ Provisions shall be made by the proper local school authorities for instructing the pupils in all public schools in a comprehensive health education program which shall include instruction (1) as to the physiological, psychological, and sociological aspects of drug use, misuse, and abuse and (2) on mental retardation and other developmental disabilities, such as cerebral palsy, autism, and epilepsy, their causes, and the prevention thereof through proper nutrition and the avoidance of the consumption of drugs as defined in this section. For purposes of this section, drugs ~~shall mean~~ means any and all biologically active substances used in the treatment of illnesses or for recreation or pleasure. Special emphasis shall be placed upon the commonly abused drugs of tobacco, alcohol, marijuana, hallucinogenics, amphetamines, barbiturates, and narcotics.

Sec. 387. Section 79-4,140.18, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-18-~~ It shall be the duty of the The Commissioner of Education to shall prepare such teaching aids and materials as may be necessary for an effective course in comprehensive health education, which shall include drug education, for distribution to all public and private schools requesting such materials and approved for continued legal operation under rules and regulations adopted and promulgated by the State Board of Education pursuant to subdivision (5)(c) of section ~~79-328~~ 146 of this act.

Sec. 388. Section 79-4,140.19, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-19-~~ School systems failing to meet the provisions of sections ~~79-4,140-17 and 79-4,140-18~~ 386 and 387 of this act shall be guilty of a deviation from the rules and regulations for the approval and accreditation of schools, and proper action by the State Department of Education shall be taken.

Sec. 389. Section 79-4,144, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,144.~~ (1) Every student and teacher in schools, ~~colleges,~~ ~~universities,~~ or other educational institutions shall be required to wear appropriate industrial-quality eye protective devices at all times while participating in or observing the following courses of instruction:

(a) Vocational, technical, industrial arts, chemical, or chemical-physical, involving exposure to:

(i) Hot molten metals or other molten materials;  
 (ii) Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;  
 (iii) Heat treatment, tempering, or kiln firing of any metal or other materials;  
 (iv) Gas or electric arc welding or other forms of welding processes;

(v) Repair or servicing of any vehicle; or  
 (vi) Caustic or explosive materials; and  
 (b) Chemical, physical, or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations, or other hazards not enumerated.

Such devices may be furnished by the school or educational institution for all students and teachers, may be purchased and sold at cost to students and teachers, or may be made available for a moderate rental fee and shall be furnished for all visitors to shops and laboratories of such institutions.

(2) As used in For purposes of this section, unless the context otherwise requires, industrial-quality eye protective devices ~~shall mean~~ means devices which meet the standard of the American National Standard Practice for Occupational and Educational Eye and Face Protection, Z 87.1(1979) as approved by the American National Standards Institute, Inc.

(3) The Commissioner of Education shall prepare and circulate to each public and private educational institution in this state instructions and recommendations for implementing the eye safety provisions of this section.

Sec. 390. Section 79-4,158.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,158.01.~~ Every affiliated high school district and every Class VI school district shall undertake efforts to provide for coordination of the curriculum between the elementary school program of instruction of participating Class I school districts and the high school program of instruction of such affiliated high school district or Class VI school district. Notwithstanding reasonable and good faith efforts to provide for coordination of curriculum, each school board of a Class I school district shall retain the final authority to determine matters of curriculum. Any additional costs incurred in providing the coordinated services required by this section shall be included as a cost of the Class VI school district. In the case of an affiliated school system, any additional costs incurred for curriculum coordination pursuant to this section shall be funded through the budget of the high school district. Any additional services required by any affiliated Class I district shall be funded through such Class I district's budget which may include contractual or purchased services.

Sec. 391. Section 79-1110, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1110.~~ Each Class VI school district may have an elementary school coordinator who holds a valid Nebraska Administrative and Supervisory Certificate in elementary education. The responsibility of the coordinator shall be to coordinate the educational programs of all Class I schools within the boundaries of the Class VI district by advising the district school board and the teachers of such Class I districts.

Sec. 392. Section 79-4,221, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,221.~~ It is the intent of the Legislature that the Junior Mathematics Prognosis Examination be available to every student in the eleventh grade in Nebraska in order to measure his or her level of preparation for college-level mathematics.

The immediate goal of the examination ~~shall be~~ is to decrease the number of Nebraska first-year college students who begin college mathematics at a remedial level. The long-term goal ~~shall be~~ is to help develop a more mathematically and scientifically literate society.

Sec. 393. Section 79-4,229, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,229.~~ For purposes of sections ~~79-4,229 to 79-4,233~~ 393 to 397 of this act, multicultural education ~~shall include, but not be includes,~~ but is not limited to, studies relative to the culture, history, and contributions of African Americans, Hispanic Americans, Native Americans, and Asian

Americans. Special emphasis shall be placed on human relations and sensitivity toward all races.

Sec. 394. Section 79-4,230, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,230-~~ (1) Each school district, in consultation with the State Department of Education, shall develop for incorporation into all phases of the curriculum of grades kindergarten through twelve a multicultural education program.

(2) The department shall create and distribute recommended multicultural education curriculum guidelines to all school districts. Each district shall create its own multicultural education program based on such recommended guidelines. Each program shall be reviewed and, if within the guidelines, approved by the department, and a copy of each such program shall be on file with the department.

(3) The process of implementation of the multicultural education program shall begin in school year 1993-94, and such process shall be completed in school year 1994-95. The multicultural education program shall be integrated into the curriculum of each district each school year thereafter.

(4) The incorporation of the multicultural education program into the curriculum of each district shall not change (a) the number of instructional hours prescribed for elementary and high school students or (b) the number of instructional hours dedicated to the existing curriculum of each district.

Sec. 395. Section 79-4,231, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,231-~~ (1) Each school district shall present evidence annually, in a form prescribed by the State Department of Education, to the department that multicultural education is being taught to students pursuant to section ~~79-4,230~~ 394 of this act. The department shall evaluate the effectiveness of the multicultural education program and establish reasonable timelines for the submission of such evidence.

(2) A school district which fails to provide or fails to provide evidence annually of multicultural education pursuant to such section ~~79-4,230~~ shall lose its accreditation status.

Sec. 396. Section 79-4,232, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,232-~~ In conjunction with the multicultural education program prescribed in section ~~79-4,230~~ 394 of this act, the State Department of Education shall design a process for evaluating the implementation and effectiveness of each multicultural education program, including the collection of baseline data. The collection of baseline data for evaluating the implementation and effectiveness of each multicultural education program shall not include the testing, assessment, or evaluation of individual students' attitudes or beliefs. An evaluation of the implementation and effectiveness of each multicultural education program shall be conducted during the first quarter of the 1997-98 school year and every five school years thereafter. The department shall report the results of each evaluation to the Legislature, the State Board of Education, and each school district.

Sec. 397. Section 79-4,233, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,233-~~ The State Department of Education shall adopt and promulgate rules and regulations to carry out sections ~~79-4,229 to 79-4,232~~ 393 to 396 of this act.

Sec. 398. Section 79-213, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-213-~~ An informed, loyal, just, and patriotic citizenry is necessary to a strong, stable, just, and prosperous America. Such a citizenry necessitates that every member thereof be fully acquainted with the nation's history; and that he or she be in full accord with our form of government, and fully aware of the liberties, opportunities, and advantages of which we are possessed and the sacrifices and struggles of those through whose efforts these benefits were gained. Since youth is the time most susceptible to the acceptance of principles and doctrines that will influence men and women throughout their lives, it is one of the first duties of our educational system to ~~so~~ conduct its activities, choose its textbooks, and arrange its curriculum in such a way that the love of liberty, justice, democracy, and America will be instilled in the ~~heart and mind~~ hearts and minds of the youth of the state.

(1) Every school board shall, at the beginning of each school year, appoint from its members a committee of three, to be known as the committee on Americanism. The committee on Americanism shall: ~~whose duties shall be:~~

(a) ~~To~~ Carefully examine, inspect, and approve all textbooks used in the teaching of American history and civil government in the school. Such textbooks shall adequately stress the services of the men and women who achieved our national independence, established our constitutional government, and preserved our union and shall be so written to include contributions by ethnic groups as to develop a pride and respect for our institutions and not be a mere recital of events and dates;

(b) Assure themselves as to the character of all teachers employed, and their knowledge and acceptance of the American form of government; and

(c) Take all such other steps as will assure the carrying out of the provisions of this section.

(2) ~~Beginning with the school term in 1971, all~~ All American history courses approved for grade levels as provided by this section, shall include and adequately stress contributions of all ethnic groups (a) to the development and growth of America into a great nation, (b) to art, music, education, medicine, literature, science, politics, and government, and (c) to the war services in all wars of this nation.

(3) All grades of all public, private, denominational, and parochial schools, below the sixth grade, shall devote at least one hour per week to exercises or teaching periods for the following purpose:

(a) The recital of stories having to do with American history, or the deeds and exploits of American heroes;

(b) The singing of patriotic songs and the insistence that every pupil ~~shall~~ memorize the ~~Star Spangled~~ Star-Spangled Banner and America; and

(c) The development of reverence for the flag and instruction as to proper conduct in its presentation.

(4) In at least two of the three grades from the fifth grade to the eighth grade in all public, private, denominational, and parochial schools, at least three periods per week shall be set aside to be devoted to the teaching of American history from approved textbooks, taught in such a way as to make the course interesting and attractive, and to develop a love of country.

(5) In at least two grades of every high school, at least three periods per week shall be devoted to the teaching of civics, during which courses specific attention shall be given to the following matters:

(a) ~~The United States Constitution of the United States and of the State~~ the Constitution of Nebraska;

(b) The benefits and advantages of our form of government and the dangers and fallacies of Nazism, Communism, and similar ideologies; and

(c) The duties of citizenship.

(6) Appropriate patriotic exercises suitable to the occasion shall be held under the direction of the school superintendent in every public, private, denominational, and parochial school on Lincoln's birthday, Washington's birthday, Flag Day, Memorial Day, and Veterans Day, or on the day preceding or following such holiday, if the school is in session.

(7) Every school board ~~and board of education~~, the State Board of Education, each county superintendent of schools, and the superintendent of each individual school in the state shall be held directly responsible, in the order named, ~~for the carrying out of~~ for carrying out the provisions of this section, and neglect thereof by any employee or appointed official shall be considered a dereliction of duty and cause for dismissal.

Sec. 399. Section 79-214, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-214.~~ Each teacher employed to give instruction in any public, private, parochial, or denominational school in the State of Nebraska shall ~~so~~ arrange and present his or her instruction ~~as~~ to give special emphasis to common honesty, morality, courtesy, obedience to law, respect for the national flag, ~~the Constitution of the United States~~ Constitution, and the Constitution of the State of Nebraska, respect for parents and the home, the dignity and necessity of honest labor, and other lessons of a steadying influence which tend to promote and develop an upright and desirable citizenry.

Sec. 400. Section 79-215, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-215.~~ The Commissioner of Education shall prepare an outline with suggestions such as in his or her judgment will best accomplish the purpose set forth in section ~~79-214~~ 399 of this act and shall incorporate the same in the regular course of study for the first twelve grades of all schools of the State of Nebraska.

Sec. 401. Any person violating the provisions of sections 398 to 400 of this act is guilty of a Class III misdemeanor.

Sec. 402. Section 79-201.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-201.11.~~ All Class I, II, III, IV, and V school districts shall

offer a kindergarten program.

ARTICLE 7

PART (d) - HIGH SCHOOL GRADUATION REQUIREMENTS AND EQUIVALENCY

DIPLOMA

Sec. 403. Section 79-4,140.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140.03.~~ The Legislature recognizes the importance of assuring that all persons who graduate from Nebraska high schools possess certain minimum levels of knowledge, skills, and understanding. Beginning in school year 1987-88, each high school student shall complete a minimum of two hundred high school credit hours prior to graduation. At least eighty percent of such credit hours shall be core curriculum courses prescribed by the State Board of Education. The State Board of Education may establish recommended statewide graduation guidelines. This section shall does not apply to high school students whose individualized education plans prescribe a different course of instruction. Nothing in this section shall This section does not prohibit the governing board of any high school from prescribing specific graduation guidelines as long as such guidelines do not conflict with this section. For purposes of this section, high school shall mean means grades nine through twelve and credit hour shall be defined by appropriate rules and regulations of the State Board of Education but shall not be less than the amount of credit given for successful completion of a course which meets at least one period per week for at least one semester.

Sec. 404. Section 79-4,147.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,147.01.~~ The Commissioner of Education shall have authority to may issue a diploma of high school equivalency conveying all the significance and privilege of a regular high school diploma to any person who is not a high school graduate if:

(1) He The person is and has been a resident of Nebraska for at least thirty days immediately preceding his application or his if his or her final period of high school attendance during which credit was earned toward graduation was in a Nebraska high school;

(2) On the basis of his such person's achievements in approved tests; and other criteria deemed pertinent by the Commissioner of Education, there is reasonable certainty that he or she has attained the educational development and abilities of the typical high school graduate; and

(3) He Such person has attained his or her eighteenth birthday; and is unable to secure a diploma from the high school he or she last attended; or the class in which he or she was enrolled at the time of his or her withdrawal from school has been graduated for at least one year.

Sec. 405. Section 79-4,147.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,147.02.~~ The application for a diploma of high school equivalency shall be submitted on a form to be furnished by the Commissioner of Education and shall be accompanied by a fee of five dollars which will not be refundable under any circumstances. A fee of two dollars shall be charged for the issuance of a duplicate diploma of high school equivalency. A fee of two dollars shall be charged for the issuance of an official transcript. All fees collected for the issuance or reissuance of such a diploma shall be transmitted remitted to the State Treasurer and by him or her deposited in the state treasury to the credit of for credit to the General Fund.

Sec. 406. Section 79-4,147.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,147.03.~~ The State Board of Education is hereby authorized to shall adopt reasonable rules and regulations for the administration of the provisions of sections 79-4,147.01 to 79-4,147.03 sections 404 to 406 of this act, and the decision of the State Board of Education with reference to the eligibility of an applicant for a diploma of high school equivalency shall be final.

Sec. 407. Section 79-4,147.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,147.04.~~ Diplomas of high school equivalency issued pursuant to section ~~79-4,147.01~~ 404 of this act shall be accepted by the University of Nebraska, the community colleges, and the state colleges for enrollment purposes.

ARTICLE 7

PART (e) - BOOKS, EQUIPMENT, AND SUPPLIES

Sec. 408. Section 79-4,118, Revised Statutes Supplement, 1995, is amended to read:

~~79-4,118-~~ (1) School boards and boards of education of all classes of school districts shall purchase all textbooks, equipment, and supplies necessary for the schools of such district. The duty to make such purchases may be delegated to employees of the school district.

(2) ~~Boards~~ School boards and ~~boards~~ boards of education shall ~~have the~~ power and duty to purchase and to loan textbooks to all children who are enrolled in kindergarten to grade twelve of a public school and, upon individual request, to children who are enrolled in kindergarten to grade twelve of a private school which is approved for continued legal operation under rules and regulations established by the State Board of Education pursuant to subdivision (5)(c) of section ~~79-328~~ 146 of this act. The Legislature may appropriate funds to carry out the provisions of this subsection. A school district ~~shall not be~~ is not obligated to spend any money for the purchase and loan of textbooks to children enrolled in private schools other than funds specifically appropriated by the Legislature to be distributed by the State Department of Education for the purpose of purchasing and loaning textbooks as provided in this subsection. Textbooks loaned to children enrolled in kindergarten to grade twelve of such private schools shall be textbooks which are designated for use in the public schools of the school district in which the child resides or the school district in which the private school the child attends is located. Such textbooks ~~are to~~ shall be loaned free to such children subject to such rules and regulations as are or may be prescribed by such school boards or boards of education. The State Department of Education shall adopt and promulgate rules and regulations to carry out the provisions of this section. The rules and regulations shall include provisions for the distribution of funds appropriated for textbooks. The rules and regulations shall include a deadline for applications from school districts for distribution of funds. If funds are not appropriated to cover the entire cost of applications, a pro rata reduction shall be made.

Sec. 409. Section 79-4,119, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,119-~~ For the purpose of paying for school books, equipment, and supplies, the school district officers may draw an order on the district treasurer for the amount of school books, equipment, and supplies ordered.

Sec. 410. Section 79-4,120, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,120-~~ Any contract entered into under the provisions of section ~~79-4,118, 408 of this act~~ with any publisher who ~~shall hereafter become~~ becomes a party to any combination or trust for the purpose of raising the price of school textbooks shall, at the option of the school board or board of education of the district using such books, become null and void.

Sec. 411. Section 79-4,121, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,121-~~ All books purchased by ~~school boards or boards~~ a school board or board of education shall be the property of the district and loaned free of charge to pupils of the school while they are pursuing a course of study ~~therein; in the school~~, but the ~~boards board~~ shall hold such pupils responsible for any damage to, loss of, or failure to return such books at the time and to the person that may be designated by the board.

## ARTICLE 7

### PART (f) - VOCATIONAL EDUCATION

Sec. 412. Section 79-1419, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1419-~~ The State Board of Vocational Education shall administer any legislation relating to vocational education enacted by the Legislature and shall direct the disbursement of and administer the use of all funds provided for vocational education and assigned to the State Department of Education.

Sec. 413. Section 79-1420, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1420-~~ The State Treasurer shall be the custodian of all funds allotted to this state from other sources for purposes of vocational education. He or she shall receive and provide for the proper custody and disbursement of the same such funds.

Sec. 414. Section 79-1421, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1421-~~ (1) The State Board of Education shall also be the State Board of Vocational Education and, when acting as the State Board of

Vocational Education, shall assume the powers and duties provided in sections 79-1419 to 79-1429 412 to 418 of this act.

(2) The Commissioner of Education shall be the executive officer of the State Board of Vocational Education. The members of the State Board of Vocational Education shall receive no compensation for their services. They shall be reimbursed for actual and essential expenses incurred in attending meetings or incurred in the performance of their duties as provided in sections 81-1174 to 81-1177. The State Board of Vocational Education shall meet in the office of the State Department of Education at least four times annually. It may meet at such other times and places as the board may determine necessary for the proper and efficient conduct of its duties. Special meetings may be called by the presiding officer upon a written notice given at least five days preceding the meeting. In the absence of such a call by the presiding officer, the Commissioner of Education shall call such special meeting upon the written request of a majority of the board. Five members of the board shall constitute a quorum for the transaction of business.

Sec. 415. Section 79-1422, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1422-~~ The State Board of Vocational Education shall adopt the policies to be followed in administering vocational education and shall supervise the administration thereof of the policies by the assistant commissioner of education, who shall be in charge of vocational education. The board shall cooperate with the United States Department of Education in the administration of federal legislation relating to vocational education and shall do all things necessary to entitle the state to receive the benefits thereof of such federal legislation. The board may adopt and promulgate rules and regulations to carry out sections 79-1419 to 79-1429 412 to 418 of this act.

Sec. 416. Section 79-1423, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1423-~~ The State Board of Vocational Education shall, on the recommendation of the Commissioner of Education, appoint staff members to carry out sections 79-1419 to 79-1429 412 to 418 of this act.

Sec. 417. Section 79-1428, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1428-~~ (1) Any board in control of any public school, college, or university may establish, with the approval of the State Board of Vocational Education, a vocational school, department, or course providing instruction necessary for the preparation of individuals for paid or unpaid employment in occupations not requiring a baccalaureate or advanced degree and vocational student organization activities which function as an integral part of the school, department, or course.

(2) Vocational schools, departments, or courses, when approved by the State Board of Vocational Education, shall be reimbursed in accordance with the terms specified annually in the contracts between the local board and the state board.

Sec. 418. Section 79-1429, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1429-~~ The State Board of Vocational Education shall (1) cooperate with the boards authorized by sections 79-1419 to 79-1429 412 to 418 of this act to establish vocational schools, departments, or courses, (2) cooperate with the United States Department of Education in the administration of federal legislation relating to vocational education and the Nebraska State Plan for Vocational Education, (3) administer the funds provided by the federal government under such federal legislation, by the State of Nebraska, and by donations or contributions for the promotion of vocational education in the public schools of Nebraska, (4) appoint staff members to administer such federal legislation and sections 79-1419 to 79-1429 412 to 418 of this act for the State of Nebraska, (5) fix the compensation of such personnel and pay such compensation and other necessary expenses of administration from funds appropriated by the Legislature or available federal funds, (6) make studies and investigations relative to vocational education, (7) promote and aid in the establishment of vocational schools, departments, or courses in communities giving training in such subjects and cooperate with local boards in the maintenance of the same such schools, departments, or courses, (8) prescribe qualifications and provide for the certification of teachers and supervisors of vocational education and related subjects, (9) cooperate in the maintenance of postsecondary training courses supported and controlled by the public for the preparation of teachers and supervisors of vocational education and related subjects or maintain such courses under its own direction and control, and (10) establish and determine by general regulations the

qualifications to be possessed by persons engaged in the training of vocational teachers.

The State Board of Vocational Education shall not allow vocational education programs to be established under sections ~~79-1419 to 79-1429~~ 412 to 418 of this act if such programs are inconsistent with sections 85-917 to 85-966 and 85-1511.

Sec. 419. Section 79-1435.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1435-01-~~ The Legislature finds that the schools in this state may best serve their students' vocational educational needs by participating in cooperative agreements with other school districts in order to share resources and programs. The Legislature further finds that recent technology, including computer developments, are expanding rapidly and students should be exposed at the elementary and secondary school levels to such technological advances in order to complete their education and prepare them for the future.

Sec. 420. Section 79-1435.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1435-02-~~ Any public school district in this state may enter into an agreement with any other public school district in this state to provide and share vocational educational programs, particularly programs involving recent technological developments such as electronics, computer science, and communications. The agreement's terms shall be approved by the school board or board of education of each school district participating in the agreement. The terms of the agreement shall include, but not be limited to, the method of sharing or hiring personnel, purchasing equipment and materials, and course curriculum.

The State Board of Vocational Education shall be apprised of all interdistrict school agreements at the time such agreements are executed.

Sec. 421. Section 79-1435.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1435-03-~~ In order to finance each school district's participation in the interdistrict school agreement pursuant to sections ~~79-1435-01 to 79-1435-03~~ 419 to 421 of this act, a school district may levy a tax, in addition to any tax levy for general or other school purposes, not to exceed ten cents on each one hundred dollars upon the taxable value of all the taxable property in the district. The tax shall be levied, paid, and collected in the same manner as other school district taxes. Such additional tax levy shall be used only for payment by the school district of the costs it incurs as a result of its participation in the interdistrict agreement.

## ARTICLE 7

### PART (g) - SCHOOL RESTRUCTURING

Sec. 422. Section 79-4,225, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,225-~~ (1) The Legislature hereby finds and declares that:

(a) Global economic competition is making new demands upon the school system of the state;

(b) The competitiveness of the United States in the new global economy will require that schools effectively educate all students and prepare them to develop the capacity to learn new skills and tasks quickly and to apply this knowledge in creative and imaginative ways, in novel contexts, and in collaboration with others;

(c) The need to fundamentally restructure education to meet the challenges and opportunities of a constantly changing technological economy is recognized and endorsed by such diverse groups as the Committee for Economic Development, an organization of some eighty chief executive officers of American corporations, the Education Commission of the States, the National Education Association, the American Federation of Teachers, and the National Governors' Association;

(d) The restructuring of the school system is a long-term, evolving process with the principal goal being to develop a system that ensures that all students learn to use their minds well as a result of their education;

(e) The Legislature's December 1988 symposium on school restructuring revealed significant interest in restructuring among Nebraska teachers, parents, administrators, school board members, business persons, and state education policymakers and also revealed that some classrooms and schools are now engaging in restructuring in one form or another;

(f) Restructuring the school system is consistent with the long-term strategies identified in the New Horizons for Nebraska process, including those strategies that call for investing and not just spending, for public-private partnerships, for active citizen involvement in developing

visions for the future, and for the leveraging of public resources through interagency cooperation; and

(g) Significant efforts to reform and restructure the school system have been initiated at the local level through the Decade of Change project, a program of school improvement involving coalitions of teachers, school administrators, school board members, students, parents, and business and community leaders.

(2) It is the intent of the Legislature to stimulate ideas and visions that go beyond the traditional models of schooling and to encourage the development of public-private partnerships in establishing and supporting reform in education.

Sec. 423. Section 79-4,226, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,226-~~ (1) There is hereby established the School Restructuring Commission within the State Department of Education. The commission shall establish goals for the improvement of education and restructuring of schools in Nebraska. The commission shall establish plans to test the effectiveness of school restructuring principles which include (a) mastery of learning and knowledge essentials, (b) active student involvement in the teaching and learning process, (c) teacher collaboration in planning curriculum, schedules, and learning goals and objectives, and (d) development of student higher-order learning skills.

(2) The commission shall consist of twelve members as follows:

(a) Two persons shall be appointed by the Governor upon the recommendation of the Legislature's Committee on Education;

(b) One person shall be appointed by the Commissioner of Education as a representative of the State Department of Education;

(c) One person shall be appointed by the Governor as a representative of the Governor's office;

(d) One person shall be appointed by the Governor as a representative of a local school board;

(e) One person shall be appointed by the Governor as a representative of school administrators;

(f) One person shall be appointed by the Governor as a representative of teachers;

(g) Two persons shall be appointed by the Governor as representatives of higher education;

(h) Two persons shall be appointed by the Governor as representatives of the business community; and

(i) One person shall be appointed by the Governor as a representative of educational service units.

(3) Appointment of the members of the commission shall be made within thirty days after April 8, 1990, and shall be approved by a majority of the Legislature during its next session. Vacancies on the commission shall be filled in the same manner as the initial appointments and shall be made within thirty days of after the creation of the vacancy.

(4) The commission may receive staff support from the Legislative Council, the Governor's Policy Research Office, and the State Department of Education.

(5) The commission shall make annual reports to the Legislature, the Governor, the State Board of Education, and the State Department of Education on the commission's progress in establishing goals and plans as required by this section.

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

(7) The commission shall terminate and be dissolved effective June 30, 1992.

Sec. 424. Section 79-4,227, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,227-~~ The State Board of Education may waive any rule or regulation of the State Department of Education and the board of education of each participating school may waive any school board policy which has been identified as a barrier in any school restructuring plan upon a showing that such rule, regulation, or policy will be a substantial impediment to success of the plan.

## ARTICLE 7

### PART (h) - NEBRASKA SCHOOLS ACCOUNTABILITY COMMISSION

Sec. 425. Section 79-4,234, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,234-~~ (1) The Legislature finds and declares that:

(a) The public school system in Nebraska is a multimillion-dollar enterprise which demands accountability to parents, to taxpayers, to employers, and, most importantly, to students;

(b) Nebraska is in need of a comprehensive and reliable system of accountability for student performance in the public school system;

(c) Nebraska needs to establish standards for learner outcomes which match the demands of citizens and workers in the twenty-first century;

(d) Current state accountability processes do not adequately measure student achievement nor the success or failure of the public schools in helping students master specific outcomes; and

(e) Nebraska needs a statewide system of accountability for determining achievement of learner outcomes.

(2) It is the intent of the Legislature to establish a process for the (a) identification of state standards for learner outcomes which are critical to the future of the state and (b) development, through a systematic and comprehensive public process, of a valid, accurate, and educationally sound system of assessing the progress of Nebraska students in achieving those outcomes.

Sec. 426. Section 79-4,235, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,235.~~ There is hereby created the The Nebraska Schools Accountability Commission is created. The commission shall consist of eleven members as follows: One representative from the Governor's office, two public school classroom teachers, two administrators or administrative staff members, two parents, one representative of postsecondary education, one school board member, one representative of business and industry, and one representative of agriculture, all appointed by the Governor upon the recommendations of associations and organizations representing parents, teachers, school administrators, and school board members. Members shall be appointed no later than July 15, 1992, and shall serve for the life of the commission. Members shall not receive a per diem. Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 427. Section 79-4,236, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,236.~~ (1) Phase I of the development of the accountability system shall begin September 1, 1992, and end September 1, 1994. The Nebraska Schools Accountability Commission shall develop broad curriculum frameworks and standards for learner outcomes which shall be based upon the frameworks, standards, and assessments determined by the School Restructuring Commission, including the curriculum areas listed in section 79-4,237 428 of this act. It is the intent of the Legislature that local school boards retain responsibility for the content of the instructional programs within the broad curriculum frameworks.

(2) Phase II shall begin May 1, 1993, and end on May 1, 1996. Phase II shall provide for the development of a reliable, accurate, and educationally sound system of assessing student progress towards achieving the standards for learner outcomes determined pursuant to subsection (1) of this section.

Sec. 428. Section 79-4,237, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,237.~~ The Nebraska Schools Accountability Commission and the State Department of Education may work with other states or a multistate consortium to develop a system of authentic assessment of learner outcomes in mathematics, science, reading, language arts, and social studies. The department shall provide staff support to the commission in all phases. The commission shall also be charged with the development of the accountability system and shall report the progress of such development to the Legislature and the State Board of Education on an annual basis.

Sec. 429. Section 79-4,238, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,238.~~ The accountability system shall be completed not later than July 1, 1996, and the Nebraska Schools Accountability Commission shall terminate on such date.

Sec. 430. Section 79-4,239, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,239.~~ The Nebraska Schools Accountability Commission Cash Fund is hereby created. Any funds appropriated by the Legislature to carry out sections ~~79-4,234 to 79-4,238~~ 425 to 429 of this act and any other money received pursuant to such sections shall be credited to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

ARTICLE 8 - TEACHERS AND ADMINISTRATORS  
PART (a) - CERTIFICATES

Sec. 431. Section 79-1229, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1229.~~ All persons holding the official title of (1) superintendent of schools, (2) principal or supervisor of an accredited school, or (3) supervisor of any special subjects or subject in which such persons actually supervise the work of other teachers in that subject or those subjects, shall hold either a Nebraska Administrative and Supervisory Certificate or a Nebraska Professional Administrative and Supervisory Certificate.

Sec. 432. Section 79-1233, Revised Statutes Supplement, 1995, is amended to read:

~~79-1233.~~ (1) Except as provided in subsection (2) of this section, no person shall be employed to teach in any public, private, denominational, or parochial school in this state who does not hold a valid Nebraska certificate or permit issued by the Commissioner of Education legalizing him or her to teach the grade or subjects to which elected, except that no Nebraska certificate or permit shall be required of persons teaching exclusively in community colleges.

(2) Any person who holds a valid certificate or permit to teach issued by another state may be employed as a substitute teacher in any public, private, denominational, or parochial school in this state for not more than ten working days if he or she begins the application process, on the first employment day, for a Nebraska substitute teacher's certificate and the issuance of such certificate is pending.

(3) Public, private, denominational, or parochial schools in the state may employ persons who do not hold a valid Nebraska teaching certificate or permit issued by the Commissioner of Education to serve as aides to a teacher or teachers. Such teacher aides may not assume any teaching responsibilities. A teacher aide may be assigned duties which are nonteaching in nature if the employing school has assured itself that the aide has been specifically prepared for such duties, including the handling of emergency situations which might arise in the course of his or her work.

Sec. 433. Section 79-1236, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1236.~~ The Commissioner of Education may extend the term of the teacher's certificate or administrator's certificate of any person who has served in the armed forces of the United States, and whose certificate was in force on the day of induction. This extension shall be equal in length of time to the total number of months which ~~intervenes~~ intervene between the date of ~~his~~ entrance into the military service and the date of ~~his~~ discharge therefrom. There shall be no fee for this service. Each person who applies for an extension of the term of his or her certificate shall furnish the Commissioner of Education proper evidence of ~~his~~ service in the armed forces and of ~~his~~ sound physical and mental health at the time the application he or she applies for such extension, is made.

Sec. 434. Section 79-1239, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1239.~~ (1) Each teacher or administrator shall register his or her certificate in the office of the county superintendent of the county in which he the teacher or administrator is employed. The county superintendent shall endorse upon the certificate that it has been registered and the date of registration. Such registration shall be without fee, and no certificate to contract for a school shall be valid until the certificate is so registered. The school board or board of education at the time of contracting with a teacher or administrator shall transmit to the county superintendent the name of the teacher or administrator to be employed, together with the position to which elected. Fifteen calendar days after the first day of school, the county superintendent shall certify to the ~~school~~ board the name of any teacher or administrator who has not registered his or her certificate or given evidence of application to the State Department of Education and qualification for a certificate or permit. Sixty calendar days after the first day of school, the county superintendent shall certify to the ~~school~~ board the name of any teacher or administrator who has not registered a certificate or permit valid for the position to which elected and that the contract of the teacher or administrator has been declared invalid. The teacher or administrator shall not be reimbursed for any services to the school district after the date of receipt of notification by the board of ~~education~~ that the contract of the teacher or administrator has been declared

invalid.

(2) Sixty calendar days after the first day in each school year, the county superintendent shall notify the county treasurer to withhold all school money belonging to any district employing an uncertificated teacher or administrator until the teacher or administrator has registered a certificate with the county superintendent or has been dismissed by the board of education employing such teacher or administrator, and it shall be the duty of the county treasurer to the county treasurer shall withhold such money.

Sec. 435. Section 79-1240, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1240-~~ The school board or board of education shall be personally liable for all public money paid to teachers or administrators who are not qualified under sections 79-1247.03 to 79-1247.13 436 to 446 of this act. A teacher or administrator violating such sections shall not recover any money for services while teaching during the time that such contract and certificate are invalid. Any person having knowledge of the employment by a school district of an uncertificated teacher or administrator may prefer charges against the school board.

Sec. 436. Section 79-1247.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1247.03-~~ It is declared to be the purpose of sections 79-1247.03 to 79-1247.13 436 to 446 of this act to provide more flexibility in the certification of qualified teachers for Nebraska schools and not to increase any requirements for certificates to teach.

Sec. 437. Section 79-1247.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1247.04-~~ As used in sections 79-1247.03 to 79-1247.13 For purposes of sections 436 to 446 of this act, unless the context otherwise requires:

- (1) Board shall mean means the State Board of Education;
- (2) Commissioner shall mean means the Commissioner of Education;
- (3) Standard institution of higher education shall mean means any college or university, the teacher education programs of which are fully approved by the State Board of Education; and
- (4) Training in human relations shall mean means training offered by each standard institution of higher education by the integration of human relations training into an existing course or combination of existing courses and evidenced by a voucher verifying that such training has in fact been offered to each graduate of such institution. Such training shall be designed to lead to the following skills:

- (a) An awareness and understanding of the values, lifestyles, contributions, and history of a pluralistic society;
- (b) The ability to recognize and deal with dehumanizing biases, including, but not limited to, sexism, racism, prejudice, and discrimination, and an awareness of the impact such biases have on interpersonal relations;
- (c) The ability to translate knowledge of human relations into attitudes, skills, and techniques which result in favorable experiences for students;
- (d) The ability to recognize the ways in which dehumanizing biases may be reflected in instructional materials;
- (e) Respect for human dignity and individual rights; and
- (f) The ability to relate effectively to other individuals and to groups in a pluralistic society other than the teacher's own.

Sec. 438. Section 79-1247.05, Revised Statutes Supplement, 1995, is amended to read:

~~79-1247.05-~~ (1) The board shall establish, adopt, and promulgate appropriate rules, regulations, and procedures governing the issuance, renewal, conversion, revival, cancellation, suspension, and revocation of certificates and permits to teach, counsel, supervise, and administer in all elementary and secondary schools in this state based upon (a) earned college credit in humanities, social and natural sciences, mathematics, and practical arts, (b) earned college credit, or its equivalent in professional education, for particular teaching, counseling, supervisory, or administrative assignments, (c) scholarship attained in earning such credit, (d) training in human relations, which requirement shall apply to the issuance of first certificates or permits issued after January 1, 1990, and to the issuance of renewal certificates or permits issued after January 1, 1993, (e) successful teaching, and (f) moral, mental, and physical fitness for teaching, all in accordance with sound educational practices.

(2)(a) The board shall establish or designate basic skills competency examinations for prospective teachers. The examinations shall measure competency in the written use of the English language, competency to

read, comprehend, and interpret professional writing and other written materials, and competency to work with fundamental mathematical computations.

(b) No candidate applying for an entry-level teacher or administrator certificate after July 31, 1989, shall receive a certificate unless such candidate has received a satisfactory score on the basic skills competency examinations established or designated by the board, except that the board may issue a temporary certificate to any teacher or administrator who is first employed in a Nebraska school after April 1 of any year and who meets all other requirements but has not taken or received a satisfactory score on the examinations. The temporary certificate shall be valid only for the ensuing school year and may be renewed for one additional year. Each Nebraska teacher education institution approved by the board shall administer the basic skills competency examinations as a condition for entry into such institution's teacher or administrator program. The State Department of Education shall administer, at a time and place designated by the commissioner, the examinations for teachers and administrators being recommended for certification from outside of Nebraska and for prospective teachers and administrators who have not matriculated in or completed a teacher training program.

(c) The board may issue a temporary certificate, valid for a period not to exceed two years, to any applicant for certification who has not completed the human relations training requirement pursuant to subdivision (1)(d) of this section or the special education competencies requirement specified in section 79-1247-16 446 of this act. No applicant for certification shall receive any manner of temporary certification which exceeds two years in duration. The board may also issue such temporary certification, valid for not more than two years, pursuant to the Interstate Agreement on Qualification of Educational Personnel found in section 79-2701 518 of this act.

(d) The board may issue substitute teaching certificates or permits in the absence of training in human relations required pursuant to subdivision (1)(d) of this section, the basic skills competency examinations required pursuant to subdivision (2)(b) of this section, or the special education competencies requirement specified in section 79-1247-16 446 of this act.

(3) Members of any advisory committee established by the board to assist the board in teacher certification matters shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. Each school district which has an employee who serves as a member of such committee and which is required to hire a person to replace such member during the member's attendance at meetings or activities of the committee or any subcommittee thereof shall be reimbursed from the General Fund for the expense it incurs from hiring a replacement. School districts may excuse employees who serve on such advisory committees from certain duties which conflict with any advisory committee duties.

Sec. 439. Section 79-1247.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1247.06-~~ The maximum which the board may require for the first issuance of any certificate or permit, valid for teaching only in all schools for a term of not less than three years, shall be that the applicant is of sound mental and physical health and of good moral character and a statement countersigned by an authorized official of a standard institution of higher education which certifies the grade levels and subject fields or areas of specialization and that the applicant (1) has a baccalaureate degree, except that a master's degree shall be required for the first issuance of any teaching certificate with a speech-language pathologist endorsement, (2) in the case of any person who matriculates in a teacher training program, has satisfactorily completed, within two years of the date of application, the institution's regular approved or accredited program of preparation for teaching and has met all other appropriate requirements of the institution as a teacher, (3) has achieved a satisfactory score on the basic skills competency examinations established or designated by the State Board of Education pursuant to section 79-1247-05 438 of this act prior to (a) admission into a Nebraska teacher training program or (b) certification in the case of individuals recommended for certification by a postsecondary institution outside of Nebraska or individuals not matriculating in a teacher training program, and (4) has performed at a satisfactory level, as determined by the State Board of Education, on a subject area examination established or designated by the State Board of Education in each area for which endorsement is sought.

Sec. 440. Section 79-1247.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1247.07-~~ (1) The certificates and permits provided for in

section ~~438 of this act~~ 79-1247.05 shall be issued by the commissioner upon application on forms to be prescribed and provided by him or her and upon the payment by the applicant of a nonrefundable fee of forty dollars, except as provided in subsection (4) of this section, for each application for a certificate or permit. The board may waive the fee for the holder of any certificate issued in another state which is determined to have validity in this state based on provisions in agreements between the states which have been approved by the board.

(2) Each such certificate or permit issued by the commissioner shall indicate the grade levels, subjects, subject fields, or areas of specialization for which the holder was specifically prepared by a standard institution of higher education or authorized by the board to teach, counsel, supervise, and administer. During the term of any certificate or permit issued by the commissioner, additional endorsements may be made on the certificate or permit for a nonrefundable fee of thirty dollars. Such additional endorsements shall indicate only the grade levels, subjects, subject fields, or areas of specialization for which the holder was specifically prepared by a standard institution of higher education or authorized by the board pursuant to section 79-1247.05 ~~438 of this act~~.

(3) ~~The Teachers' Certification Fund is created.~~ Any fee received by the State Department of Education under this section shall be remitted to the State Treasurer for credit to the Teachers' Certification Fund. ~~The fund shall be used which is hereby created for use by the department in paying the costs of certifying educators pursuant to sections 79-1247.05 to 79-1247.13 438 to 446 of this act,~~ except that ten dollars of the forty-dollar fee specified in subsection (1) of this section shall be credited to the Professional Practices Commission Fund which is hereby created for use by the department to pay for the provisions of sections ~~79-1280 to 79-1286 484 to 496 of this act~~. Money in the Teachers' Certification Fund shall not be used for any purpose other than the direct certification of educators and shall not be used for accreditation visits. Any money in the Teachers' Certification Fund or the Professional Practices Commission 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.

(4) Since nonpublic schools and their teachers do not receive the benefits of sections ~~79-1280 to 79-1286 484 to 496 of this act~~, a special certificate or permit restricted to use in nonpublic schools only shall be issued upon payment of a nonrefundable fee of thirty dollars. Such certificate or permit shall have plainly stamped or otherwise written on its face the words nonpublic school only. Upon surrender of such a certificate or permit and the payment of the fee provided in subsection (1) of this section by the holder of the certificate or permit, a regular certificate or permit shall be issued. Such fee shall be remitted and credited as directed in subsection (3) of this section.

(5) Upon payment by the applicant of a nonrefundable fee of thirty dollars, a duplicate certificate or permit to which the holder is entitled may be issued by the commissioner.

Sec. 441. Section 79-1247.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1247.08-~~ All college credits submitted for the purpose of obtaining a certificate or permit shall ~~have been~~ be earned in or accepted by a regular teacher education program in a standard institution of higher education of this or another state and shall be certified by the proper authorities of the institution attended, showing the academic and professional preparation of the applicant.

Sec. 442. Section 79-1247.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1247.09-~~ The board may authorize the issuance of certificates or permits upon recommendation from institutions of higher education located in states other than Nebraska if the respective State Department of Education or similar agency fully approves the teacher education programs of the institution based on standards for approving the institution and its education programs which are comparable and equivalent to those required by the board. Any applicant for a Nebraska teacher or administrator certificate who is recommended for certification by a teacher training institution from outside Nebraska and who does not hold a current out-of-state certificate to teach or administer shall receive a satisfactory rating or score on the basic skills competency examinations and a subject matter examination as prescribed by the State Board of Education pursuant to section 79-1247.05 ~~438 of this act~~ or meet comparable equivalent requirements as prescribed by law or regulation of the state in which such teacher training institution is located.

Sec. 443. Section 79-1247.10, Reissue Revised Statutes of Nebraska,

is amended to read:

~~79-1247-10.~~ The board may authorize the issuance of certificates or permits to applicants who hold a valid certificate or permit currently in force in a state other than Nebraska if the requirements for the certificate or permit held by the applicant are comparable and equivalent to those required for a similar type of certificate or permit issued under sections ~~79-1247-03 to 79-1247-13 436 to 446 of this act.~~

Sec. 444. Section 79-1247.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1247-11.~~ The board may limit the use of any certificate or permit issued under sections ~~79-1247-03 to 79-1247-13 436 to 446 of this act~~ and based upon less than four years of college preparation for teaching to Class I school districts and grades kindergarten to six in Class II school districts or any certificate or permit based upon four or more years of college preparation in all classes of school districts or schools to those grade levels, subject fields, or areas of instruction for which the holder was specifically prepared to teach, counsel, supervise, or administer by a standard institution of higher education.

Sec. 445. Section 79-1247.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1247-13.~~ Any regular Nebraska certificate, including any permanent or life certificate in force on January 1, 1964, shall remain in force for its regular term. Upon application by the holder of any such certificate, the board may authorize the conversion of such certificate to a similar certificate or permit issued by the commissioner under sections ~~79-1247-03 to 79-1247-13 436 to 446 of this act.~~

Sec. 446. Section 79-1247.16, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1247-16.~~ Commencing on and after September 17, 1992, a candidate applying for an entry-level teacher or administrator certificate pursuant to section ~~79-1247-05 438 of this act~~ shall not receive such certificate unless he or she has completed at least three semester credits of course work or the equivalent thereof in special education. The equivalent may be accomplished in part or in full by including study of the handicapped student in other course work. Course work shall provide the student with all of the following:

(1) Knowledge of the exceptional educational needs of the handicapping classifications and conditions as defined by section ~~79-3309 802 of this act;~~

(2) Knowledge of the major characteristics of each classification or condition in order to recognize its existence in children;

(3) Knowledge of various alternatives for providing the least restrictive environment for handicapped children;

(4) Knowledge of methods of teaching students with handicapping conditions in the regular classroom; and

(5) Knowledge of prereferral alternatives, referral systems, multidisciplinary team responsibilities, the individualized education plan process, and the placement process.

## ARTICLE 8

### PART (b) - EMPLOYMENT CONTRACTS

Sec. 447. Section 79-1248, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1248.~~ A contract for the employment of a teacher or administrator for a public school in the State of Nebraska shall be in writing. The contract form or forms to be used shall be recommended by the State Department of Education.

Sec. 448. Section 79-1249, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1249.~~ A majority of the members of a school board or board of education of any school district may enter into a contract of employment with a legally qualified teacher or administrator. Such majority ~~shall have has~~ authority to designate one or more members of the board to sign such contract, which signature shall be binding upon the entire board. A duplicate of such contract shall be filed with the secretary. No member of the board shall enter into or execute on behalf of the district any contract with any teacher or administrator related to him or her or to the majority of the board by blood or marriage. The secretary shall notify the county superintendent, at the time the contract is made, of the length of the proposed term of school, when the school will begin, and the name of the teacher or administrator. No money belonging to the district shall be paid for teaching to any but legally

qualified teachers, nor shall any school and a board shall not pay out money belonging to the school district to any teacher or administrator after such board has received a sworn statement upon behalf of a school board or board of education board that the services of the teacher or administrator in question are under previous contract to said that board.

Sec. 449. Section 79-1250, Reissue Revised Statutes of Nebraska, is amended to read:

79-1250- A contract for employment of a teacher or administrator authorized under section 448 of this act shall contain (1) a provision whereby by which the employed person affirms that he or she holds or will hold, at the beginning of the term of the contract, a valid certificate properly registered in the office of the county superintendent, and that he or she is not under contract with another school board or board of education of a school district in this state, and (2) a provision that there shall be no penalty for release from said the contract.

Sec. 450. Section 79-1251, Reissue Revised Statutes of Nebraska, is amended to read:

79-1251- No school board or board of education in the State of Nebraska shall enter into a contract of employment with a teacher or administrator who is already under contract with another school board or board of education within this state covering a part or all of the same time of performance as the contract with such other board. No person, under contract with any school board or board of education, shall enter into such a contract of employment with another school board or board of education for part or all of the same time of performance as his or her contract with such other board. Upon the receipt of a sworn statement, made for or authorized by such other board, that a person employed by any board in such capacity is already under contract of employment with such other board, for part or all of the same time of performance as such person is, has been, or will be so employed by said the board, said the board shall immediately cease payment of any salary to such teacher or administrator. Any member of a board of education or school board, who knowingly violates any of the provisions of this section, shall be individually and personally liable for any damages sustained by the other school district.

Sec. 451. Section 79-1252, Reissue Revised Statutes of Nebraska, is amended to read:

79-1252- Upon presentation of proof that any teacher, principal, supervisor, assistant superintendent, or superintendent has, without just cause, violated or abrogated his or her contract with a school district in the state, the The State Board of Education shall, after a hearing has been held at a time and place fixed by the board and of which notice has been given to the person whose certificate is sought to be suspended by either registered or certified mail at least ten days prior to the hearing, suspend the certificate of such any teacher, principal, supervisor, assistant superintendent, or superintendent for a period of not more than one calendar year upon presentation of proof that the person has, without just cause, violated or abrogated his or her contract with a school district in the state, after a hearing has been held at a time and place fixed by the board and of which notice has been given to the person whose certificate is sought to be suspended by either registered or certified mail at least ten days prior to the hearing.

Sec. 452. Section 79-1254.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1254.01- At any regular meeting, a school board or board of education may elect for employment such administrators as the board may deem necessary for the proper conduct of the affairs of the school district at such salaries as the board may deem reasonable. It may contract with such administrators for a term terms not to exceed three years. No person shall be declared elected unless he or she receives the vote of a majority of all the members of the board. The contract of employment shall be reduced to writing.

Sec. 453. Section 79-4,140.05, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,140.05- The State Department of Education shall develop guidelines and the State Board of Education shall adopt and promulgate rules and regulations when funds are appropriated by the Legislature to carry out this section to encourage appropriate use of extended teacher contracts, to improve the educational program of students in need of remedial teaching or individualization, and to provide enrichment curriculum. The Legislature shall appropriate funds for grants-in-aid to school districts or educational service units which submit proposals for extended contracts which are approved by the State Board of Education. Proposals shall demonstrate how grants will be used in an extended contract program to further the aims of instructional

remedial teaching, individualization of instruction, and curriculum enrichment. Grants shall be limited to fifty percent of the cost of the program, and the programs shall not involve more than ten percent of the certificated teachers at each participating school or educational service unit. The State Board of Education through the Commissioner of Education shall make a report on the effectiveness of such program within three years after funds for the program are appropriated. For purposes of this section, extended teacher contract shall mean means a contract providing for full-time employment of teachers for a period of time in addition to the period of time covered in the teacher's basic contract.

## ARTICLE 8

## PART (c) - TENURE

Sec. 454. Section 79-12,107, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,107-~~ For purposes of sections ~~79-12,107 to 79-12,121~~ 454 to 472 of this act, unless the context otherwise requires:

(1) Certificated employee shall mean and include means and includes all teachers and administrators as defined in section ~~79-101 1 of this act~~, other than substitute teachers, who are employed one-half time or more by any class of school district;

(2) School board shall mean means the governing board or body of any class of school district;

(3) Probationary certificated employee shall mean means a teacher or administrator who has served under a contract with the school district for less than three successive school years in any school district, unless extended one or two years by a majority vote of the board in a Class IV or V school district, except that after September 1, 1983, in Class IV and V school districts the requirement shall be three successive school years. Probationary certificated employee also means ~~7~~ and shall also mean superintendents, regardless of length of service;

(4) Just cause shall mean means: (a) Incompetency, which shall include, but not be includes, but is not limited to, demonstrated deficiencies or shortcomings in knowledge of subject matter or teaching or administrative skills; (b) neglect of duty; (c) unprofessional conduct; (d) insubordination; (e) immorality; (f) physical or mental incapacity; (g) failure to give evidence of professional growth as required in section ~~79-12,113 460 of this act~~; or (h) other conduct which interferes substantially with the continued performance of duties;

(5) Permanent certificated employee shall mean means a teacher or administrator who has served the probation period as defined in this section; and

(6) School year, for purposes of employment, shall mean means three-fourths of the school year or more on duty, exclusive of summer school.

A certificated employee who has been hired to fulfill the duties of another certificated employee who is on leave of absence shall not accrue rights under sections ~~79-12,107 to 79-12,121~~ 454 to 472 of this act during the period that the employee is fulfilling such duties.

Sec. 455. Section 79-12,108, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,108-~~ (1) Part-time certificated employees shall become permanent certificated employees based upon the following formula:

(a) For certificated employees employed four-fifths time or more, each such year of employment shall count as a full successive school year; and

(b) For certificated employees employed one-half time or more but less than four-fifths time, each such year of employment shall be credited against the three-year requirement for acquiring permanent certificated employee status in an amount proportionate to the term of such employment for each year. Such certificated employees shall become eligible for permanent certificated status at the beginning of the school year next succeeding the year in which they attain the proportionate amount of time.

(2) Any certificated employee who achieves permanent certificated employee status shall not lose such permanent certificated employee status because of reduction in force resulting in a contract amendment which would reduce such certificated employee to any part-time employment position.

Sec. 456. Section 79-12,109, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,109-~~ The superintendent or the superintendent's designee may take action with regard to a certificated employee's performance or conduct which is deemed reasonably necessary to assist the certificated employee and further school purposes, including: (1) Counseling; (2) oral reprimand; (3)

written reprimand; and (4) suspension without pay for not to exceed thirty working days.

Prior to taking any action under subdivision (3) of this section, the certificated employee shall be advised of the alleged reasons for the proposed action and provided the opportunity to present the certificated employee's version of the facts. The certificated employee may proceed under the school district's grievance procedure if the school district has such a grievance procedure which provides for a review of such action or may, within seven calendar days after the superintendent or superintendent's designee takes such action, may challenge the decision through the administrative chain of command.

Prior to taking any action under subdivision (4) of this section, the certificated employee shall be advised in writing of the alleged reasons for the proposed action and provided the opportunity to present the certificated employee's version of the facts. Within seven calendar days of after receipt of such notice, the certificated employee may make a written request to the secretary of the school board or the superintendent or superintendent's designee for formal due process hearing under section 79-12,115 462 of this act. If such a request is not delivered within such time, the action of the superintendent or the superintendent's designee shall become final.

Sec. 457. Section 79-12,110, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,110-~~ (1) The contract of any certificated employee, including a superintendent, associate superintendent, or assistant superintendent may be canceled or amended by a majority of the members of the school board during the school year for any of the following reasons: (a) Upon cancellation, termination, revocation, or suspension of a teacher's certificate, by the State Board of Education, or of the Nebraska Administrative and Supervisory Certificate or the Nebraska Professional Administrative and Supervisory Certificate of any certificated employee whose duties require such a certificate; (b) breach of any of the material provisions of the teacher's or administrator's contract; (c) for any of the reasons set forth in the employment contract; (d) incompetency; (e) neglect of duty; (f) unprofessional conduct; (g) insubordination; (h) immorality; or (i) physical or mental incapacity.

(2) ~~In the event that if~~ the school board or the superintendent or the superintendent's designee of any school district ~~should determine~~ determines that it is appropriate to consider cancellation of a certificated employee's contract during the school year for the reasons set forth in subsection (1) of this section, the certificated employee shall be notified in writing of the alleged grounds for cancellation of the contract and that such certificated employee's contract may be canceled. Within seven calendar days of after receipt of such notice, the certificated employee may make a written request to the secretary of the school board or to the superintendent or superintendent's designee for a hearing.

(3) Prior to scheduling of action or the hearing, if requested, the notice of possible cancellation and the reasons supporting possible cancellation shall be considered a confidential employment matter subject to the provisions of sections 79-4,156 to 79-4,158 and 84-1410, section 84-1410 and sections 292 and 534 of this act and shall not be released to the public or any news media.

(4) ~~Nothing contained in this section shall~~ This section does not prevent the suspension from duty with pay of a certificated employee pending a decision on the cancellation of the contract.

Sec. 458. Section 79-12,111, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,111-~~ (1) The contract of a probationary certificated employee shall be deemed renewed and remain in full force and effect unless amended or not renewed in accordance with sections ~~79-12,107 to 79-12,121~~ 454 to 472 of this act.

(2) ~~It shall be the~~ The purpose of the probationary period is to allow the employer an opportunity to evaluate, assess, and assist the employee's professional skills and work performance prior to the employee obtaining permanent status.

All probationary certificated employees employed by Class I, II, III, and VI school districts shall, during each year of probationary employment, be evaluated at least once each semester, unless the probationary certificated employee is a superintendent, in accordance with the procedures outlined below:

The probationary employee shall ~~have been~~ be observed and evaluation shall ~~have been~~ be based upon actual classroom observations for an entire

instructional period. ~~Should deficiencies be~~ If deficiencies are noted in the work performance of any probationary employee, the evaluator shall provide the teacher or administrator at the time of the observation with a list of deficiencies, a list of suggestions for improvement and assistance in overcoming the deficiencies, and followup evaluations and assistance when deficiencies remain.

If the probationary certificated employee is a superintendent, he or she shall be evaluated twice during the first year of employment and at least once annually thereafter.

Any certificated employee employed prior to September 1, 1982, by the school board of any Class I, II, III, or VI school district shall serve the probationary period required by law prior to such date and shall not be subject to any extension of probation.

(3) ~~in the event that If~~ the school board or the superintendent or superintendent's designee ~~should determine~~ determines that it is appropriate to consider whether the contract of a probationary certificated employee or the superintendent should be amended or not renewed for the next school year, such certificated employee shall be given written notice that the school board will consider the amendment or nonrenewal of such certificated employee's contract for the ensuing school year. Upon request of the certificated employee, notice shall be provided which shall contain the written reasons for such proposed amendment or nonrenewal and shall be sufficiently specific so as to provide such employee the opportunity to prepare a response and the reasons set forth in the notice shall be employment related.

(4) The school board may elect to amend or not renew the contract of a probationary certificated employee for any reason it deems sufficient if such nonrenewal ~~shall not be is not~~ is not for constitutionally impermissible reasons, and such nonrenewal shall be in accordance with sections ~~79-12,107 to 79-12,121 454 to 472 of this act.~~ 79-12,107 to 79-12,121 454 to 472 of this act. Amendment or nonrenewal for reason of reduction in force shall be subject to sections ~~79-1254.05 to 79-1254.08 and 79-12,107 to 79-12,121 454 to 472 and 476 to 479 of this act.~~ 79-1254.05 to 79-1254.08 and 79-12,107 to 79-12,121 454 to 472 and 476 to 479 of this act.

(5) Within seven calendar days after receipt of the notice, the probationary certificated employee may make a written request to the secretary of the school board or to the superintendent or ~~the~~ superintendent's designee for a hearing before the school board.

(6) Prior to scheduling of action or a hearing on the matter, if requested, the notice of possible amendment or nonrenewal and the reasons supporting possible amendment or nonrenewal shall be considered a confidential employment matter as provided in sections ~~79-4,156 to 79-4,158 and 84-1410 section 84-1410 and sections 292 and 534 of this act~~ 79-4,156 to 79-4,158 and 84-1410 section 84-1410 and sections 292 and 534 of this act and shall not be released to the public or any news media.

(7) At any time prior to the holding of a hearing or prior to final determination by the school board to amend or not renew the contract involved, the probationary certificated employee may submit a letter of resignation for the ensuing year, which resignation shall be accepted by the school board.

(8) The probationary certificated employee shall be afforded a hearing which shall not be required to meet the requirements of a formal due process hearing as set forth in section ~~79-12,115, 462 of this act~~ 79-12,115, 462 of this act but shall be subject to section ~~79-12,116 464 of this act.~~ 79-12,116 464 of this act.

Sec. 459. Section 79-12,112, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,112-~~ The contract of a permanent certificated employee shall be deemed continuing and shall be renewed and remain in full force and effect unless amended or terminated in accordance with the provisions of sections ~~79-12,107 to 79-12,121 454 to 472 of this act.~~ 79-12,107 to 79-12,121 454 to 472 of this act. The school board by a vote of the majority of its members may determine that such permanent certificated employee's contract shall be amended or terminated for any of the following reasons: (1) Just cause as defined in section ~~79-12,107 454 of this act;~~ 79-12,107 454 of this act; (2) reduction in force as set forth in sections ~~79-1254.05 to 79-1254.08 476 to 479 of this act,~~ 79-1254.05 to 79-1254.08 476 to 479 of this act, or change of leave-of-absence policies; (3) failure of the certificated employee upon written request of the school board or the administrators of the school district to accept employment for the next school year within the time designated in the request, except that the certificated employee shall not be required to signify such acceptance prior to March 15 of each year; (4) revocation, cancellation, suspension, or termination of the certificated employee's certificate, by the State Board of Education, or of a Nebraska Administrative and Supervisory Certificate or Nebraska Professional Administrative and Supervisory Certificate of a certificated employee whose duties require such a certificate.

Sec. 460. Section 79-12,113, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,113-~~ Every six years permanent certificated employees shall

give evidence of professional growth. Six semester hours of college credit shall be accepted as evidence of professional growth or, in the alternative, such other activities as are approved by the school board, which may include, but are not limited to, educational travel, professional publications, or work on educational committees.

Sec. 461. Section 79-12,114, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,114.~~ Any probationary or permanent certificated employee whose contract of employment may be amended, terminated, or not renewed for the next school year shall be notified in writing on or before April 15 of each year of such possible action on the contract. If the certificated employee wishes a hearing, a written request shall be sent to the secretary of the school board or the superintendent of schools or the superintendent's designee within seven calendar days after receipt of the written notice. Unless (1) continued by written agreement between the parties or their representatives as provided in this section or (2) a hearing officer is utilized as provided in sections ~~79-12,121.01 to 79-12,121.03~~ 470 to 472 of this act, final action by the school board must be taken on or before May 15 of each year. If a hearing on amendment, nonrenewal, cancellation, or termination is not requested within the time provided for in sections ~~79-12,107 to 79-12,121~~ 454 to 472 of this act, the school board shall make a final determination. With regard to all hearings provided for under sections ~~79-12,107 to 79-12,121~~ such sections, either formal due process hearings or informal hearings, the certificated employee shall be advised in writing at least five days prior to the date of hearing of the date, time, and place of the hearing. Except as provided in section ~~79-12,121.01~~ 470 of this act, all such hearings shall be held within thirty days of the date of the request for hearing. The parties or their representatives by mutual agreement, confirmed in writing, may extend the times for hearings or final determinations by the board under sections ~~79-12,107 to 79-12,121~~ 454 to 472 of this act.

Sec. 462. Section 79-12,115, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,115.~~ (1) A formal due process hearing for the purposes of sections ~~79-12,110 and 79-12,112~~ 457 and 459 of this act shall mean a hearing procedure adopted by the school board which contains at least the following: (a) Notification to the certificated employee in writing at least five days prior to the hearing of the grounds alleged for action, cancellation, termination, or nonrenewal of the teacher's contract; (b) upon request of the certificated employee a notification, at least five days prior to the hearing, of the names of any witnesses who will be called to testify against the certificated employee and an opportunity to examine any documents that will be presented at the hearing; (c) the right to be represented; and (d) an opportunity to cross-examine all witnesses and to examine all documents and to present evidence material to the issues.

(2) Due and proper notice of the hearing shall be given in accordance with sections 84-1408 to 84-1414. Upon an affirmative vote of a majority of the school board's members present and voting and upon specific request of the certificated employee or the certificated employee's representative, the hearing shall be conducted in a closed session but the formal action of the school board shall be taken in open session.

(3) A majority of the members of the school board shall render ~~its~~ the decision to amend, cancel, terminate, or not renew a certificated employee's contract, based solely upon the evidence produced at the hearing, shall reduce its findings and determinations to writing, and shall deliver a written copy thereof to the certificated employee.

Sec. 463. Section 79-12,115.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,115.01.~~ In error proceedings to reverse, vacate, or modify a final order by a school board made pursuant to sections ~~79-12,107 to 79-12,121~~ 454 to 472 of this act, the school district, school board, or both may be named as defendants in error in the proceedings. The proceedings shall not be defeated ~~nor shall the court and the court shall not~~ be deprived of subject matter jurisdiction because the petitioner named the school board rather than the school district or the school district rather than the school board as the defendant in error.

This section shall apply to all error proceedings currently pending in the district court or the Supreme Court on June 11, 1991, and to error proceedings commenced after such date.

Sec. 464. Section 79-12,116, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,116.~~ Hearings involving the question of the nonrenewal of a probationary certificated employee's contract or the nonrenewal of a

superintendent shall not be due process hearings and shall not be required to meet the requirements of section 79-12,115 462 of this act but shall be informal hearings at which the probationary certificated employee or superintendent, involved or his or her representative, shall be afforded the opportunity to discuss and explain his or her position with regard to continued employment, to present information, and to ask questions of those appearing on behalf of the school district. Such hearings shall be held in closed session at the request of the certificated employee or superintendent, involved, or his or her representative, and upon affirmative vote of a majority of the school board members present and voting, but the formal action of the school board for nonrenewal shall be in open session.

Sec. 465. Section 79-12,117, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,117.~~ The hearing for a probationary certificated employee, except a superintendent, provided in section 79-12,116 464 of this act, may be held before a committee of the school board consisting of not less than three of the board's total members. Notice of such a hearing shall be sent to all board members five days prior to such hearing. If a hearing is held before such a committee, the majority opinion of the committee shall constitute a recommendation to the school board with the final determination being made by a majority vote of the members of the school board without additional hearing. The hearing for a superintendent, provided in such section 79-12,116, shall not be held before a committee of the school board. Notice shall be given to all parties at least five days prior to such a hearing. A vote of the majority of the members of the school board shall determine final action relative to the contract of the superintendent.

Sec. 466. Section 79-12,118, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,118.~~ (1) After providing the opportunity for a hearing on cancellation, termination, or nonrenewal as provided for in sections 79-12,111, 79-12,112, and 79-12,115 458, 459, and 462 of this act, and except when reduction in force is the reason given for possible termination, and when just cause can be shown, the school board may impose such other sanctions, other than termination, cancellation, or nonrenewal of the contract, as may be agreed upon by the parties.

(2) The fact that action has been taken under this section in the past may be taken into consideration in determining appropriate action in future hearings with regard to the certificated employee for a period of five years following the date of such action.

Sec. 467. Section 79-12,119, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,119.~~ The school board may, on its own behalf, or shall upon the request of the certificated employee or his or her representative, or at the request of the school district administration or the superintendent or the superintendent's designee, (1) subpoena and compel the attendance of witnesses residing either within or without outside the state for the purpose of appearing and testifying at any hearing provided for in sections 79-12,107 to 79-12,121 454 to 472 of this act and for the purpose of having such witnesses' depositions taken, in the manner prescribed by law for the taking of depositions in civil actions in the district court, and (2) issue subpoenas for the production of any papers, books, accounts, and documents.

Sec. 468. Section 79-12,120, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,120.~~ Any school board, upon written request, may grant a leave of absence to a permanent certificated employee for such reasons as the school board deems appropriate, including, but not limited to, study, military service, or professional improvement, or because of physical disability or sickness, or as otherwise required by law, subject to such rules and regulations governing leaves of absence as may be adopted by the school board. A school board may require a permanent certificated employee, because of physical disability or sickness, to take a leave of absence for a period not exceeding one year. In any such case, the procedure to be followed and the rights of the permanent certificated employee shall be the same as those prescribed in sections 79-12,107 to 79-12,121 454 to 472 of this act for termination of a permanent certificated employee.

Sec. 469. Section 79-12,121, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,121.~~ Nothing contained in sections 79-12,107 to 79-12,121 shall be construed to Sections 454 to 472 of this act do not provide any certificated employee a right to a specific assignment so long as such certificated employee is assigned to duties for which he or she is qualified by reason of certification, endorsement, or college preparation.

Sec. 470. Section 79-12,121.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,121-01-~~ Any school board of a Class IV or Class V school district or certificated employee thereof may require that hearings held pursuant to sections ~~79-12,107 to 79-12,121~~ 454 to 469 of this act and such other hearings as designated by the school board be conducted by a hearing officer as specified in sections ~~79-12,121-02 and 79-12,121-03~~ 471 and 472 of this act. If a hearing is held before such a hearing officer, the requirements of section ~~79-12,114~~ 461 of this act that final action must be taken by the school board on or before May 15 of each year and that a hearing must be held within thirty days of the date of the request for a hearing shall not apply.

Sec. 471. Section 79-12,121.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,121-02-~~ If the school board of a Class IV or V school district or certificated employee thereof determines that a hearing shall be conducted by a hearing officer, the parties to the hearing or their representatives shall select a hearing officer. Any person selected as a hearing officer pursuant to this section shall be an attorney admitted to practice in Nebraska and shall be knowledgeable in the rules of civil procedure and evidence applicable to the district courts. If the parties cannot agree on the selection of a hearing officer within seven days of after the filing of the request for a hearing, the secretary of the school board shall immediately request a list of hearing officers from the State Department of Education. The department shall at all times maintain a list of at least five qualified hearing officers and shall provide a copy of the list within five days of after receipt of a written request from the secretary of a school board. The parties or their representatives shall select the hearing officer by alternately removing a name from the list until only one name remains. The person whose name remains shall be the hearing officer. The parties shall determine by lot which party shall remove the first name from the list. Such selection shall be completed within seven days of after the receipt of the list from the department. The secretary of the school board shall inform the department of the name of the hearing officer selected.

Sec. 472. Section 79-12,121.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,121-03-~~ The hearing officer selected pursuant to section ~~79-12,121-02~~ 471 of this act shall conduct the hearing referred to in section 470 of this act, hear and receive evidence, and make recommended findings of fact and conclusions of law. The hearing shall be held in private if the employee so requests, otherwise and if the employee does not so request the hearing shall be conducted in public. Within thirty days following the hearing, the hearing officer shall transmit to the school board the original or a certified copy of the record of the hearing, which shall include the transcribed testimony from the hearing and the recommended findings of fact and conclusions of law. The certified record filed by the hearing officer shall be the record upon which the school board shall make its decision, and no additional evidence shall be heard by the school board. The school board shall give each party an opportunity for oral argument and briefing prior to making its decision. If a hearing is requested, no one shall contact or be contacted by the school board or individual school board members regarding the subject matter of the hearing in order to obtain or provide information to be considered in making the decision or in an attempt to persuade the school board regarding the decision to be made, except that the school board may receive advice and counsel from an attorney hired to represent the school board in making the decision. In making its decision, the school board shall give weight to the findings of fact of the hearing officer but shall not be bound by them. The school board shall make its decision within twenty days of after receipt of the record from the hearing officer. All expenses and fees of the hearing officer in connection with the hearing shall be paid ~~for~~ by the school board.

Sec. 473. Section 79-1254.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1254-02-~~ The contracts of the teaching staff and school nurses employed by an educational program administered by the State Department of Education, the Department of Public Institutions, or a political subdivision of the state, except a school district or an educational service unit, the colleges governed by the Board of Trustees of the Nebraska State Colleges, and any university governed by the Board of Regents of the University of Nebraska shall require the sanction of a majority of the members of the governing board. Except as provided in section ~~79-1254-09~~ 475 of this act, each such contract shall be deemed renewed and in force and effect until a majority of

the governing board votes or the Director of Public Institutions determines, sixty days before the close of the contract period, to amend or terminate the contract for just cause. The department or the secretary of the governing board shall notify each teacher or school nurse in writing at least ninety days before the close of the contract period of any conditions of unsatisfactory performance or a reduction in teaching staff or nursing staff that the department or board considers may be just cause to either amend or terminate the contract for the ensuing year. Any teacher or school nurse so notified shall have the right to file, within five days of after receipt of such notice, a written request with the department or board for a hearing before the department or board. Upon receipt of such request, the department or board shall order the hearing to be held within ten days after such receipt and shall give written notice of the time and place of the hearing to the teacher or school nurse. At the hearing, evidence shall be presented in support of the reasons given for considering amendment or termination of the contract, and the teacher or school nurse shall be permitted to produce evidence related thereto. The department or board shall render the decision to amend or terminate a contract based on the evidence produced at the hearing.

Sec. 474. Section 79-1254.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1254.03.~~ Sections 79-1254.02 and 79-1254.03 shall be construed as providing 473 and 474 of this act provide a minimum standard and not as repealing do not repeal any law of a governing authority that provides for additional contract rights pertaining to the same subject matter.

Sec. 475. Section 79-1254.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1254.09.~~ Any contract of employment entered into after July 1, 1984, between the teaching staff and the Department of Public Institutions, the Department of Correctional Services, or the Department of Social Services which applies to the first two years of the employment of such teaching staff shall provide that the first two years of the employment of such teacher are a probationary period. Any such contract may be terminated during the probationary period without cause.

#### ARTICLE 8

##### PART (d) - REDUCTION IN FORCE

Sec. 476. Section 79-1254.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1254.05.~~ Prior to January 1, 1979, every school board, board of education, or governing board of any educational institution in Nebraska covered by the provisions of sections 79-1254 to 79-1262, 454 to 472 of this act shall adopt a reduction-in-force policy covering employees subject to such statutory provisions to carry out the intent of sections 79-1254.05 to 79-1254.08 476 to 479 of this act. No such policy shall allow the reduction of a permanent or tenured employee while a probationary employee is retained to render a service which such permanent employee is qualified by reason of certification and endorsement to perform or, in cases in which where certification is not applicable, by reason of college credits in the teaching area. If employee evaluation is to be included as a criterion to be used for reduction in force, specific criteria, such as frequency of evaluation, evaluation forms, and number and length of classroom observations shall be included as part of the reduction-in-force policy.

Sec. 477. Section 79-1254.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1254.06.~~ Before a reduction in force shall occur, it shall be the responsibility of the occurs, the school board or board of education and the school district administration to shall present competent evidence demonstrating that a change in circumstances has occurred necessitating a reduction in force. Any alleged change in circumstances must be specifically related to the teacher or teachers to be reduced in force, and the board, based upon evidence produced at the hearing required by sections 79-12, 107 to 79-12, 121 454 to 472 of this act, shall be required to specifically find that there are no other vacancies on the staff for which the employee to be reduced is qualified by endorsement or professional training to perform.

Sec. 478. Section 79-1254.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1254.07.~~ Any employee whose contract shall be is terminated because of reduction in force shall be considered to have been dismissed with honor and shall upon request be provided a letter to that effect. Such employee shall have preferred rights to reemployment for a period of

twenty-four months commencing at the end of the contract year of such employee, and the employee shall be recalled on the basis of length of service to the school to any position for which he or she is qualified by endorsement or college preparation to teach. Whenever a school district has, pursuant to section 79-486 351 of this act, contracted for the instruction of all of the students residing in such district or has, pursuant to section 79-701 248 of this act, contracted for the instruction of its students in grades nine through twelve, ~~then~~ the preferred rights to reemployment shall commence at the end of the student contract period as agreed to by the contracting school district. The employee shall, upon reappointment, retain any benefits which had accrued to such employee prior to termination, but such leave of absence shall not be considered as a year of employment by the district. An employee under contract to another educational institution may waive recall, but such waiver shall not deprive the employee of his or her right to subsequent recall.

Sec. 479. Section 79-1254.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1254.08.~~ Notwithstanding sections 79-1254.05 to 79-1254.07 476 to 478 of this act, if the reduction of an employee based upon the provisions of such sections 79-1254.05 to 79-1254.08 would place a district in noncompliance of any federal or state law laws or regulations requiring affirmative action employment practices, the district may vary from these provisions as necessary to comply with such laws or regulations.

#### ARTICLE 8

##### PART (e) - REORGANIZED SCHOOL DISTRICTS

Sec. 480. Section 79-12,104, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,104.~~ As used in sections 79-12,104 to 79-12,106 For purposes of sections 480 to 482 of this act, unless the context otherwise requires, reorganized school district shall mean means:

(1) Any expanded or altered school district, organized or altered by any of the means provided by Nebraska law including, but not limited to, the methods provided by section 79-402, ~~79-402.03 to 79-402.05, 79-403, 79-407, 79-426.02 to 79-426.19, 79-426.23 to 79-426.26, or 79-801~~ the Reorganization of School Districts Act or section 156, 162, 164 to 166, 201 to 204, 205, 212, or 222 of this act; or

(2) Any school district to be formed in the future if the petition or plan for such reorganized school district has been approved pursuant to any of the methods set forth in subdivision (1) of this section when the effective date of such reorganization is prospective. For purposes of this subdivision, a petition or plan shall be deemed approved when the last legal action has been taken, as prescribed in section 79-402, ~~79-426.18, or 79-426.26~~ 162, 199, or 204 of this act, necessary to effect the changes in boundaries as set forth in the petition or plan.

Sec. 481. Section 79-12,105, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,105.~~ The reorganized school district or districts may terminate, in accordance with sections 79-12,107 to 79-12,121 454 to 472 of this act, the contracts of employment of teachers whose employer's school district was or is to be closed, merged, or otherwise altered as provided for reorganized school districts in section 79-12,104 480 of this act, except that such teachers shall for the purpose of reduction in force be considered teachers of the reorganized school district or districts and the teachers shall be given full credit for the years of teaching experience they had acquired as well as the same tenure or permanent status rights they had in the school district or districts affected by the reorganization.

Sec. 482. Section 79-12,106, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,106.~~ The collective-bargaining agreement of the school district or districts forming the reorganized school district with the largest number of teacher employees shall continue in full force and effect and govern all teachers in the reorganized school district until replaced by a successor agreement, and the teachers employed by the reorganized school district and previously employed by the school districts involved in the formation of the reorganized school district shall automatically be included in that bargaining unit but no certificated public school employee shall be compelled to join any organization or association. If only one collective-bargaining agreement is in effect in the school districts which are a part of the reorganization, then that collective-bargaining agreement shall continue in full force and effect until replaced by a successor agreement, and the teachers employed by the

other school districts involved in the reorganization shall automatically be included in that bargaining unit.

Sec. 483. Section 79-535, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-535.~~ The A consolidation under sections 217 and 218 of this act shall not affect the rights of the principals, teachers, janitors, and employees of any of the districts ~~thus merged under such sections.~~ They shall continue in the employ of the school district into which their former districts are merged. In determining their status, salaries, and other rights, their previous service with the merged district in whose employ they were employing them at the time of the merger, shall be counted as if they had been originally employed by the consolidated district.

#### ARTICLE 8

#### PART (f) - PROFESSIONAL PRACTICES COMMISSION

Sec. 484. Section 79-1280, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1280.~~ Teaching The Legislature declares teaching in public schools in this state and the related services, including administrative and supervisory services, are hereby declared to be a profession, with all of the rights, responsibilities, and privileges accorded other recognized professions.

Sec. 485. Section 79-1280.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1280-01.~~ For purposes of sections 79-1280 to 79-1286 ~~484 to 496 of this act:~~

- (1) Commission ~~shall mean~~ means the Professional Practices Commission;
- (2) Board ~~shall mean~~ means the State Board of Education; and
- (3) Commissioner ~~shall mean~~ means the Commissioner of Education.

Sec. 486. Section 79-1281, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1281.~~ (1) The Governor shall appoint a Professional Practices Commission of twelve members nominated by the teaching profession and existing teachers professional organizations. Members shall be representative of elementary classroom teachers, secondary classroom teachers, school administrators, and postsecondary education. Members shall be appointed for staggered terms of three years. No member may succeed himself or herself more than once. Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. Compensation of members who are public employees shall not be reduced by the agency or body by which they are regularly employed for any absence from service occasioned by attendance upon the business of the commission or any panel, committee, or subcommittee of the commission. Each school district which employs a member of the commission and which is required to employ a person to replace such member during his or her attendance at meetings of the commission or any panel, committee, or subcommittee of the commission shall be reimbursed from the Professional Practices Commission Fund for the expense the district incurs from employing a replacement.

(2) The members of the commission shall elect a chairperson pursuant to the working rules of the commission. The chairperson shall call meetings of the commission, preside at all meetings of the commission en banc, assign the work of the commission to the members, and perform such other supervisory duties as required.

(3) A majority of the commission members shall constitute a quorum to transact business. A hearing panel of not less than seven commission members shall hear cases brought before the commission. Members of the hearing panel shall be assigned on a rotating basis. For purposes of hearings, the act or decision of a majority of the commission members sitting on the hearing panel shall in all cases be deemed the final act or decision of the commission.

Sec. 487. Section 79-1281.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1281-01.~~ The commission shall, with the advice and consent of the Governor, appoint a clerk of the commission who shall hold office at the pleasure of the commission. The clerk shall, under the direction of the chairperson of the commission, keep a complete and accurate record of the proceedings of the commission, record all pleadings and other papers filed with the commission, issue all necessary notices and writs, superintend the business of the commission, and perform such other duties as the commission directs. The clerk shall not be a member of the commission and shall not

participate in hearings before the commission except to schedule and make other arrangements for the conduct of hearings.

The commission 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 expenses as provided in sections 81-1174 and 81-1177 within the amounts available in the budget of the commission.

Sec. 488. Section 79-1281.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1281-02.~~ The clerk of the commission shall receive such salary as the commission with the approval of the Governor determines. Such salary shall be payable in the same manner as the salaries of other state employees, and the clerk shall be reimbursed for his or her actual expenses incurred in the performance of his or her duties as provided in sections 81-1174 to 81-1177.

Sec. 489. Section 79-1281.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1281-03.~~ The commission shall appoint a certified court reporter to report and transcribe all testimony given in hearings and trials before the commission. The reporter shall be paid from the budget of the commission.

Sec. 490. Section 79-1281.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1281-04.~~ The commission may, on a case-by-case basis, retain legal counsel to sit with any hearing panel of the commission during hearings to advise the hearing panel on questions of law.

Sec. 491. Section 79-1282, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1282.~~ (1) The board shall adopt and promulgate rules and regulations establishing standards of professional practices for teachers and administrators holding certificates in areas including, but not limited to: (a) Ethical and professional performance; (b) competency; (c) continuance in professional service; and (d) contractual obligations. The board shall receive the advice and counsel of the commission in the adoption of such standards as the standards apply to the holders of public school certificates.

(2) The board may, for just cause, revoke or suspend any teacher's or administrator's certificate.

Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board. The revocation or suspension of a certificate shall terminate the employment of such teacher or administrator. The board shall immediately notify the secretary or the school board or board of education of the school district where such teacher or administrator is employed of such revocation or suspension, shall notify the teacher or administrator of such revocation or suspension, and shall record the action in the matter in the books or records of the board State Board of Education.

Sec. 492. Section 79-1282.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1282-01.~~ The revocation of a person's teacher's or administrator's certificate by the board shall automatically revoke any and all Nebraska teachers' certificates held by the person. A teacher's or administrator's certificate which has been suspended shall be automatically reinstated at the end of the suspension if such certificate did not expire during the period of suspension. If the certificate expired during the period of suspension, the holder of the expired certificate may secure a new certificate by ~~making application therefor~~ applying for and by meeting the certification requirements at the time of application for the new certificate. A person whose teacher's or administrator's certificate has been revoked may apply for a new certificate at the expiration of any period of ineligibility fixed by the board by ~~making application therefor~~ applying for and by meeting the certification requirements at the time of application for the new certificate.

Sec. 493. Section 79-1283, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1283.~~ The board may request the commission to hold hearings and make recommendations to the board concerning alleged violations of standards of professional ethics and practices by holders of public school certificates. The board may employ hearing officers to hold hearings and make recommendations to the board concerning alleged violations of standards of professional ethics and practices by holders of nonpublic school certificates. The recommendations of the commission shall be made a part of the record of

the board in all cases of public school certificate revocation or suspension and reinstatement of a revoked public school certificate. The commission may privately admonish or warn or publicly reprimand teachers and administrators holding public school certificates for violation of the standards established pursuant to section 79-1282 491 of this act. Any public reprimand by the commission shall be reported to the State Department of Education. Any recommendation for the revocation or suspension of a public school certificate by the commission shall be reported to the board.

The commissioner may employ persons to investigate and prosecute cases of alleged violations of standards of professional ethics and practices before the commission or before the board and its hearing officers. The commissioner shall cause to be investigated expeditiously any complaint which is filed with him or her or which is otherwise called to his or her attention and which if legally sufficient constitutes grounds for the revocation or suspension of a certificate or any other appropriate penalty set forth in section 79-1282 491 of this act or in the rules and regulations adopted and promulgated pursuant to such section. If following an investigation the commissioner determines that legally sufficient grounds exist for revocation or suspension of a certificate or for any other appropriate penalty set forth in such section or rules and regulations, the commissioner may, in his or her discretion, file a petition with the commission for adjudication of the matter or may reach an agreement for the appropriate sanction as allowed by the rules and regulations.

Sec. 494. Section 79-1284, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1284.~~ The commission and the board shall adopt and promulgate rules and regulations for the performance of their functions under sections ~~79-1280 to 79-1286~~ 484 to 496 of this act. Recommendations may be made by the commission to the board State Board of Education, to school boards or boards of education, and to postsecondary educational institutions which will promote improvement of education and the teaching profession.

Sec. 495. Section 79-1285, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1285.~~ In the performance of their functions under sections ~~79-1247.07 and 79-1280 to 79-1286~~ 484 to 496 of this act, the commissioner, the commission, and the board may subpoena witnesses and place them under oath.

Sec. 496. Section 79-1286, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1286.~~ All costs and expenses incurred by the commission in administering the provisions of sections ~~79-1280 to 79-1286~~ 484 to 496 of this act shall be paid from the Professional Practices Commission Fund. The commission shall develop its own budget which shall be included as a program in the general budget of the State Department of Education.

## ARTICLE 8

### PART (g) - PROFESSIONAL OR LABOR ORGANIZATIONS

Sec. 497. Section 79-12,101, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,101-~~ Any teacher or administrator employed by a school district who voluntarily participates in a professional or labor organization may authorize the withholding from his or her wages of an amount to be paid to the professional or labor organization. The school district shall make such deduction each month or pay period and pay the amount deducted to such professional or labor organization. The school district may charge an amount not to exceed the actual cost incurred by the school district for making such deductions.

Sec. 498. Section 79-12,102, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,102-~~ An authorization for a deduction under section ~~79-12,101~~ 497 of this act shall be in writing, and the form to authorize shall also include a notice to the employee of his or her right to refuse authorization. The authorization shall continue in force until revoked in writing by the employee. The authorization may also authorize the professional or labor organization to certify annually the amount to be deducted from each employee's wages, and such certification shall bind the employee, the school district, and the organization.

Sec. 499. Section 79-12,103, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,103-~~ The school district shall not be liable to the professional or labor organization for any claim, demand, or cost arising out

of the withholding of authorized amounts and the transmittal of deductions authorized by the school district employees under sections 497 and 498 of this act.

## ARTICLE 8

## PART (h) - STUDENT TEACHER OR INTERN

Sec. 500. Section 79-1297, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1297.~~ As used in sections 79-1297 to 79-12,100 For purposes of sections 500 to 503 of this act, student teacher or intern shall mean a student who is enrolled in an institution of higher learning a postsecondary educational institution approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a board of education to student-teach or intern under the direction of a regularly employed certificated teacher, principal, or other administrator. Student teaching may include duties granted to a certificated teacher under the rules and regulations of such board of education and any other part of the school program for which either the cooperating teacher or the principal is responsible.

Sec. 501. Section 79-1298, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1298.~~ A student teacher or intern under the supervision of a certificated teacher, principal, or other administrator shall have the protection of the laws accorded the certificated teacher, principal, or other administrator and shall, while acting as such student teacher or intern, comply with all rules and regulations of the local board of education and observe all duties assigned certificated teachers.

Sec. 502. Section 79-1299, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1299.~~ It shall be the responsibility of a cooperating teacher, in cooperation with the principal or other administrator and the representative of the teacher preparation institution, to assign to the student teacher or intern responsibilities and duties that will provide adequate preparation for teaching.

Sec. 503. Section 79-12,100, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,100.~~ Whenever in sections 79-1297 to 79-12,100 500 to 503 of this act board of education is referred to and the school that a student teacher or intern is referred to does not have a board of education, such term shall be the person or governing body that administers such school.

## ARTICLE 8

## PART (i) - PROFESSIONAL STAFF DEVELOPMENT PROGRAM

Sec. 504. Section 79-4,140.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140.04.~~ There is hereby created the The Professional Staff Development Program to is created. The program shall be administered by the State Department of Education. The department shall adopt and promulgate rules and regulations for the administration of such program when funds are appropriated by the Legislature to fund such program and make distribution of shall distribute such funds payable to such program. Administrative costs shall be paid from the department's general budget. Payments, not to exceed fifty dollars for each certificated teacher or administrator in the district or educational service unit, shall be made to each school district or educational service unit which has submitted an inservice plan. Such plan shall have been developed with the participation of teachers and administrators employed by such district or educational service unit and shall be approved by the State Department of Education. The plan shall include components for training administrators in conducting teacher evaluations and any other components which the board State Board of Education may by rule or regulation deem necessary. To assist the department in implementing this section, the Commissioner of Education with the approval of the board shall appoint an Advisory Committee on Staff Development. The size, composition, and duties to be performed by the advisory committee shall be determined by the board, except that the advisory committee shall be representative of the various elements of the educational community. The advisory committee shall continue for at least three years after July 10, 1984. Thereafter, the board may as deemed necessary continue the advisory committee on an annual basis.

## ARTICLE 8

## PART (j) - HELP EDUCATION LEAD TO PROSPERITY ACT

Sec. 505. Section 79-3501, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3501.~~ Sections ~~79-3501 to 79-3510~~ 505 to 517 of this act shall be known and may be cited as the Help Education Lead to Prosperity Act.

Sec. 506. Section 79-3502, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3502.~~ The purpose of the Help Education Lead to Prosperity Act is to promote excellence in education through increased teacher salaries. It is the intent of the Legislature that Nebraska public schools have the capacity to recruit new teachers and retain quality teachers already employed through general salary increases.

Sec. 507. Section 79-3503, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3503.~~ For purposes of the Help Education Lead to Prosperity Act:

- (1) Department ~~shall mean~~ means the State Department of Education;
- (2) Fund ~~shall mean~~ means the Educational Excellence Fund;
- (3) Program funds ~~shall mean~~ means those funds distributed pursuant to section ~~79-3505 509 of this act~~ for general salary increases;
- (4) Provider ~~shall mean~~ means a school district, an educational service unit, a school operated by the Department of Correctional Services, the State Department of Education, the Department of Public Institutions, or the Department of Social Services, the Beatrice State Developmental Center, or the Lincoln Regional Center;
- (5) Regular compensation ~~shall mean~~ means the annual salary specified in a teacher's contract not including pay earned for performance of noninstructional duties or the employer's share of retirement benefits; and
- (6) Teacher ~~shall mean~~ means a nonsupervisory, certificated staff member of a provider.

Sec. 508. Section 79-3504, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3504.~~ There is hereby created the The Educational Excellence Fund is created. Money in the fund shall be used only for purposes of section ~~79-3505 509 of this act~~. The State Treasurer shall make distributions from the fund as required by the Help Education Lead to Prosperity Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 509. Section 79-3505, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3505.~~ (1) Each provider shall certify to the department each year (a) the number of full-time equivalent teachers employed by the provider for the school year and (b) the weighted number of full-time equivalent teachers based on the weighted values found in subsection (2) of this section.

(2) In calculating the weighted number of full-time equivalent teachers, the following values shall be used:

(a) A full-time equivalent teacher with a bachelor's degree shall be counted as one full-time equivalent teacher; and

(b) A full-time equivalent teacher with a master's degree shall be counted as one and one-fifth full-time equivalent teachers.

(3) The department shall compute each provider's dollar share of program funds using the formula provided in subsection (4) of this section and data certified by the provider for the preceding school year and shall provide such information to the State Treasurer.

(4) The State Treasurer shall distribute an amount to providers in the same proportion as their weighted number of full-time equivalent teachers bears to the weighted number of full-time equivalent teachers in the state as a whole employed by providers which have submitted the information as required by this section. All of the first fifteen million dollars appropriated and two-thirds of the amount in excess of twenty million dollars appropriated for distribution pursuant to the Help Education Lead to Prosperity Act shall be used only for purposes of providing general salary increases which are bargained for together with other salary increases and benefit changes at the local level and for paying the employer's share of federal social security and retirement benefit payments on such salary increases.

Sec. 510. Section 79-3506, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3506.~~ After the program funds have been transmitted to a provider and an agreement has been reached by the provider and the local teacher association or local bargaining group, the provider shall commence payments pursuant to such agreement for the individual contract.

Sec. 511. Section 79-3507, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3507-~~ Any provider who misappropriates program funds shall have twice the amount misappropriated deducted from the provider's state aid for the subsequent year.

Sec. 512. Section 79-3508, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3508-~~ Any amount or amounts received or to be received by or for any teacher or teachers under any provision of the Help Education Lead to Prosperity Act shall not become a part of any contract rights protected under sections ~~79-12,107 to 79-12,121~~ 454 to 472 of this act.

Sec. 513. Section 79-3509, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3509-~~ (1) It is the intent of the Legislature to provide adequate funding to enable the department to carry out its duties under the Help Education Lead to Prosperity Act.

(2) ~~The Legislature shall appropriate twenty million dollars from the General Fund for fiscal year 1989-90 and twenty million dollars from the General Fund for fiscal year 1990-91 to carry out the provisions of section 79-3505-~~

Sec. 514. Section 79-3509.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3509.01-~~ (1) The Legislature hereby finds and declares that there is a need to enhance the quality, effectiveness, and performance of teaching and learning in the public schools. The Legislature further finds that school-based, locally negotiated performance-based or supplemental salary enhancement plans are an effective means to address the specific learning needs of students. The purpose of this section is to create an incentive to encourage improvements in learning through locally negotiated performance-based or supplemental salary enhancement plans. Money distributed under this section shall be used for the purpose of providing performance-based or supplemental salary increases for existing employees. Salary increases may be paid to individual teachers, groups of teachers assigned to specific disciplines, multidisciplinary groups, or school faculty who voluntarily participate in such a plan.

It is the intent of the Legislature that providers incorporate into performance-based or supplemental salary enhancement plans the implementation of recommendations from recently issued national and state reports relating to national, state, and local educational goals.

(2) After fifteen million dollars have annually been appropriated for general salary increases pursuant to the Help Education Lead to Prosperity Act, the next five million dollars appropriated and one-third of the amount in excess of twenty million dollars for distribution pursuant to the act shall be used only for purposes of providing performance-based or supplemental salary increases. The State Treasurer shall distribute each year an amount to providers meeting the eligibility requirements of this section in the same proportion as their weighted number of full-time equivalent teachers bears to the weighted number of full-time equivalent teachers in the state as a whole employed by providers meeting the eligibility requirements of this section which have submitted the information required by section ~~79-3505~~ 509 of this act. Providers shall be eligible to receive funds under this section when the department, pursuant to rules and regulations established to implement this section, has approved a provider's performance-based or supplemental salary enhancement plan and has certified to the State Treasurer the existence of an approved plan. Such rules and regulations shall include provisions to assure that each essential element of a performance-based or supplemental salary enhancement plan, including any provision for performance evaluation, has been agreed to by the local governing board or responsible agency official of the provider and the local teacher association or local bargaining group if there is no local teacher association. The plan shall be reduced to writing and signed by both parties.

(3) Performance-based or supplemental salary enhancement plans may include, but shall not be limited to, such criteria as:

(a) Superior teaching performance in completing assigned duties, including assessment of effective teaching, student performance, or a combination of these criteria;

(b) Participating in curriculum planning and development, including vertical or horizontal articulation and leadership, educational assessment practices, attendance at workshops or summer staff development programs, or development and presentation of staff development programs for other teachers to be presented during the school year;

(c) Mentoring new teachers or student teachers for professional

growth;

(d) Peer coaching for professional growth;

(e) Providing additional instruction to students for purposes of decreasing the dropout rate and at-risk population, providing multicultural experiences, increasing the attendance rate, or accelerating achievement growth;

(f) Participating in differentiated staffing assignments including additional work assignments, in specialized training during the regular school day or during an extended school day, week, or year, or in sabbatical leave;

(g) Participating on district or school improvement teams, including strategic planning teams, site-based decisionmaking teams, and comprehensive school transformation or restructuring teams;

(h) Participating in specifically approved staff development programs during the school year; and

(i) Participating in comprehensive school transformation or restructuring, including educational programs focusing on student outcomes, student assessment, accountability for organization success, or community or business collaborative efforts.

(4) Performance-based or supplemental salary enhancement plans shall be submitted to the department by September 1 of each year. The department shall certify approval of plans to the State Treasurer by November 1 of each year.

Sec. 515. Section 79-3509.02, Revised Statutes Supplement, 1995, is amended to read:

~~79-3509.02-~~ For purposes of the general fund budget of expenditures as defined in section ~~79-3803~~ 654 of this act, funds received to carry out the Help Education Lead to Prosperity Act shall be considered special grant funds.

Sec. 516. Section 79-3509.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3509.03-~~ No revenue raised pursuant to the increases in the income tax rate and sales tax rate provided in Laws 1990, LB 1059, shall be appropriated by the Legislature in support of the Help Education Lead to Prosperity Act.

Sec. 517. Section 79-3510, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3510-~~ The department may adopt and promulgate rules and regulations to carry out the Help Education Lead to Prosperity Act.

#### ARTICLE 8

#### PART (k) - INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

Sec. 518. Section 79-2701, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2701-~~ The Interstate Agreement on Qualification of Educational Personnel is hereby enacted into law and entered into with all ~~jurisdiction~~ jurisdictions legally joining therein, in the form substantially as follows:

##### Article I

##### Purpose, Findings, and Policy

1. The States party to this Agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this Agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the States party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party States find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from State to State in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other States. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their States of origin, can increase the available educational resources. Participation in this Compact can increase the availability of educational manpower.

## Article II Definitions

As used in this Agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to State law as a condition of employment in educational programs.
2. "Designated State official" means the education official of a State selected by that State to negotiate and enter into, on behalf of his State, contracts pursuant to this Agreement.
3. "Accept", or any variant thereof, means to recognize and give effect to one or more determinations of another State relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving State.
4. "State" means a State, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.
5. "Originating State" means a State (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.
6. "Receiving State" means a State (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

## Article III

### Interstate Educational Personnel Contracts

1. The designated State official of a party State may make one or more contracts on behalf of his State with one or more other party States providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the States whose designated state officials enter into it, and the subdivisions of those States, with the same force and effect as if incorporated in this Agreement. A designated state official may enter into a contract pursuant to this Article only with States in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own State.
2. Any such contract shall provide for:
  - (a) Its duration.
  - (b) The criteria to be applied by an originating State in qualifying educational personnel for acceptance by a receiving State.
  - (c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.
  - (d) Any other necessary matters.
3. No contract made pursuant to this Agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.
4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this Agreement shall require acceptance by a receiving State of any persons qualified because of successful completion of a program prior to January 1, 1954.
5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving State.
6. A contract committee composed of the designated state officials of the contracting States or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting States.

## Article IV

### Approved and Accepted Program

1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party State relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that State.

2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V  
Interstate Cooperation

The party States agree that:

1. They will, so far as practicable, prefer the making of multi-lateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI  
Agreement Evaluation

The designated state officials of any party States may meet from time to time as a group to evaluate progress under the Agreement, and to formulate recommendations for changes.

Article VII  
Other Arrangements

Nothing in this Agreement shall be construed to prevent or inhibit other arrangements or practices of any party State or States to facilitate the interchange of educational personnel.

Article VIII  
Effect and Withdrawal

1. This Agreement shall become effective when enacted into law by two States. Thereafter it shall become effective as to any State upon its enactment of this Agreement.

2. Any party State may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States.

3. No withdrawal shall relieve the withdrawing State of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX  
Construction and Severability

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person, or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any Government, agency, person, or circumstance shall not be affected thereby. If this Agreement shall be held contrary to the constitution of any State participating therein, the Agreement shall remain in full force and effect as to the State affected as to all severable matters.

Sec. 519. Section 79-2702, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2702-~~ The designated state official for this state shall be the Commissioner of Education. The Commissioner of Education shall enter into any contracts pursuant to Article III of the agreement only with the approval of the specific text thereof by the State Board of Education.

Sec. 520. Section 79-2703, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2703-~~ True copies of all contracts made on behalf of this state pursuant to the agreement shall be kept on file in the office of the Commissioner of Education and in the office of the Secretary of State. The State Department of Education shall publish all such contracts in convenient form.

ARTICLE 8  
PART (1) - MISCELLANEOUS

Sec. 521. Section 79-1268, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1268-~~ It shall be unlawful for any person to prepare or deliver any questionnaire, employment application, or information blank to any applicant for any teaching position in the public schools of this state; ~~if~~

~~said if the questionnaire, employment application, or information blank shall contain contains~~ any inquiry or reference to the religious affiliation or the religious belief of ~~said the~~ applicant.

Sec. 522. Section 79-1269, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1269-~~ Any person who ~~shall violate violates~~ the provisions of section 79-1268 ~~shall be 521 of this act is~~ guilty of a Class III misdemeanor. Violation of ~~said such~~ section shall be cause for the removal of any superintendent, member of a board of education or school board, or other public school official.

Sec. 523. Section 79-1274, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1274-~~ Any teacher in any public school in this state who ~~shall wear in said wears, in such~~ school or while engaged in the performance of his or ~~her~~ duty, any dress or garb, indicating the fact that such teacher is a member or an adherent of any religious order, sect, or denomination, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in any sum not exceeding one hundred dollars and the costs of prosecution or shall be committed to the county jail for a period not exceeding thirty days or both.

Sec. 524. Section 79-1275, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1275-~~ In case of violation of section 79-1274 ~~523 of this act by~~ any teacher employed in any public school, notice of which having been previously given to the school board or board of education employing such teacher, ~~it shall be the duty of such school board or board of education to the board shall~~ suspend such teacher from employment in such school for the term of one year. In case of the second offense by such teacher, ~~it is the duty of the school board or board of education to the board shall~~ disqualify permanently such teacher from teaching in such school. Any member of a ~~school board or board of education board~~ who fails to comply with the provisions of this section ~~shall be is~~ guilty of a Class V misdemeanor and upon conviction shall be punished by a fine not exceeding one hundred dollars and costs of prosecution.

Sec. 525. Section 79-1272, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1272-~~ It shall be unlawful for any peddler, agent, ~~salesmen~~ salesperson, or representative of any commercial enterprise, theatrical production, or play, to call upon, ~~or to~~ secure contracts, ~~with~~ or solicit orders and business from any classroom teacher while ~~said the~~ classroom teacher is actively engaged in the pursuit of his ~~or her~~ work as such. For the purposes of this section, a teacher is actively engaged in the pursuit of his ~~or her~~ work between the hours of 8:30 a.m. and 5 p.m. on all days the school in which he ~~or she~~ is teaching is in session. ~~The school board or~~ ~~7~~ ~~Provided,~~ that the board of education of any school district may designate such other hours as in their judgment seem best during which the classroom teacher or teachers of ~~said the~~ district may be interviewed or solicited by the persons designated in this section.

Sec. 526. Section 79-1273, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1273-~~ Any person or persons who ~~shall violate~~ the purpose and intent of the provisions of section 79-1272 ~~525 of this act~~ shall be guilty of a Class III misdemeanor.

Sec. 527. Section 79-1276, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1276-~~ There is hereby created the position of Reserve Teacher. Any person ~~(1)~~ who (1) has passed his ~~or her~~ sixty-fifth birthday, (2) has taught not less than twenty-five years in the public schools of this state, (3) has retired prior to September 1, 1958, and (4) is a resident of this state at the time of appointment ~~shall be is~~ eligible for appointment to such position.

Sec. 528. Section 79-1277, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1277-~~ Any person desiring an appointment as a Reserve Teacher may make application therefor to the Commissioner of Education, on or before September 1, 1972, on forms to be provided by the commissioner. If ~~he the~~ commissioner finds that such applicant meets the requirements established by section 79-1276 ~~527 of this act~~, the commissioner shall appoint such person to the position of Reserve Teacher and shall issue an appropriate certificate evidencing such appointment.

Sec. 529. Section 79-1278, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1278-~~ Each Reserve Teacher shall perform such services as the

Commissioner of Education may from time to time direct, including, but not limited to, (1) acting as a temporary teacher in the public schools in the school district in which he or she resides when any emergency necessitates his so acting and (2) consulting with and doing research for the authorities of the school district in which he or she resides.

Sec. 530. Section 79-1279, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1279.~~ (1) For the services required under the provisions of sections 79-1276 to ~~79-1279~~ 527 to 530 of this act, each Reserve Teacher shall receive an annual salary of twenty-four hundred dollars which shall be payable in twelve equal monthly installments.

(2) When it appears to the Commissioner of Education that the interests of the Reserve Teacher would be served thereby, payment of salary may be made directly to the teacher or to a relative or some other person for the benefit of the teacher regardless of any legal disability on the part of such teacher.

Sec. 531. Section 79-1253, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1253.~~ In case of epidemic sickness prevailing to such an extent that the school or schools in any school district shall be closed, teachers shall be paid their usual salaries in full for such time as the school or schools shall be closed.

Sec. 532. Section 79-1254.10, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1254.10.~~ Every school district shall provide each teacher with an uninterrupted lunch period of not less than thirty minutes each school day, and no teacher shall be assigned teaching, supervisory, or other duties during such lunch period, except that school district attendance centers having less than two teachers shall be exempted from the provisions of this section.

Sec. 533. Section 79-4,148, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,148.~~ All persons engaged in teaching in the public schools of the State of Nebraska and all other employees paid from public school funds, shall sign the following pledge:

I, ....., do believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic; an indissoluble nation of many sovereign states; a perfect union, one and inseparable; established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes.

I acknowledge it to be my duty to inculcate in the hearts and minds of all pupils in my care, so far as it is in my power to do, (1) an understanding of the Constitutions of the United States Constitution and of the State Constitution of Nebraska, (2) a knowledge of the history of the nation and of the sacrifices that have been made in order that it might achieve its present greatness, (3) a love and devotion to the policies and institutions that have made America the finest country in the world in which to live, and (4) opposition to all organizations and activities that would destroy our present form of government.

Sec. 534. Section 79-4,156, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,156.~~ Any teacher, administrator, or full-time employee of any public school district shall, upon his or her request, have access to his or her personnel file maintained by the district and shall have the right to attach a written response to any item in such file. Such teacher, administrator, or employee and he may in writing authorize any other person to have access to such file, which authorization shall be honored by the district. Such access and right to attach a written response shall not be granted with respect to any letters of recommendation solicited by the employer which appear in the personnel file. No other person except school officials while engaged in their professional duties shall be granted access to such file, and nor shall the contents thereof shall not be divulged in any manner to any unauthorized person.

Sec. 535. Section 79-602, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-602.~~ Every teacher in a Class I school district of the first class shall make a report at the end of each nine-week period, to the secretary of the district, of the number of pupils attending ~~his~~ the teacher's school, the names and ages of each, the days attended, and the studies pursued. No teacher will be entitled to receive pay in full for a term's service until the term summary is properly filled out and approved by the secretary.

ARTICLE 9 - SCHOOL EMPLOYEES' RETIREMENT SYSTEMS  
PART (a) - EMPLOYEES OF OTHER THAN CLASS V DISTRICT

Sec. 536. Section 79-1501.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-1501.01.~~ Sections ~~79-1501 to 79-1567~~ 536 to 612 of this act shall be known and may be cited as the School Employees Retirement Act.

Sec. 537. Section 79-1501, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1501.~~ For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions ~~shall mean~~ means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2) Beneficiary ~~shall mean~~ means any person in receipt of a school retirement allowance or other benefit provided by the act;

(3) Member ~~shall mean~~ means any person who has an account in the School Retirement Fund;

(4) County school official ~~shall mean~~ means the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(5) Creditable service ~~shall mean~~ means prior service for which credit is granted under sections ~~79-1515 to 79-1518~~ 561 to 564 of this act plus all service rendered while a member of the retirement system and ~~shall include~~ includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service ~~shall~~ does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days;

(6) Disability retirement allowance ~~shall mean~~ means the annuity paid to a person upon retirement for disability under section ~~79-1524~~ 587 of this act;

(7) Employer ~~shall mean~~ means the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees or to pay their compensation;

(8) Fiscal year ~~shall mean~~ means any year beginning July 1 and ending June 30 next following;

(9) Regular interest ~~shall mean~~ means interest at such a rate as shall be determined by the retirement board in conformity with actual and expected earnings on its investments;

(10) Junior school employee ~~shall mean~~ means a school employee who has not arrived at his or her twenty-first birthday anniversary on August 15 preceding;

(11) Present senior school employee ~~shall mean~~ means a senior school employee who was employed within the State of Nebraska on September 1, 1945;

(12) School employee ~~shall mean~~ means a contributing member who acquires five hundred sixteen hours or more of service in a fiscal year and thereby earns one-half year of service credit. A contributing member who acquires one thousand thirty-two hours or more of service in a fiscal year shall earn one year of service credit. For purposes of this subdivision, contributing member ~~shall mean~~ means the following persons who receive compensation from a public school: (a) Regular teachers and administrators employed on a written contract basis; (b) regular employees, not certified, hired upon a full-time basis which contemplates a workweek of not less than thirty hours; and (c) part-time employees hired on a workweek of not less than fifteen hours;

(13) Prior service ~~shall mean~~ means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;

(14) Public school ~~shall mean~~ means any and all schools supported by public funds and wholly under the control and management of the State of Nebraska or any subdivision thereof, including schools or other entities established, maintained, and controlled by the school boards of local school districts, except as provided in sections 613 to 651 of this act, and schools under the control and management of the Nebraska state colleges or the Board of Regents of the University of Nebraska, any educational service unit, and any other educational institution wholly supported by public funds;

(15) Retirement ~~shall mean~~ means qualifying for and accepting a school or disability retirement allowance granted under the ~~act~~ School Employees Retirement Act;

(16) Retirement board or board ~~shall mean~~ means the Public Employees

Retirement Board;

(17) Retirement system shall mean means the School Retirement System of the State of Nebraska;

(18) Required deposit shall mean means the deduction from a member's compensation as provided for in section 79-1531 593 of this act which shall be deposited in the School Retirement Fund;

(19) School year shall mean means one fiscal year which shall include not less than one thousand thirty-two instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

(20) Senior school employee shall mean means a school employee who has arrived at his or her twenty-first birthday anniversary on August 15 preceding;

(21) Service shall mean means service as a school employee;

(22) School retirement allowance shall mean means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-1528 to 79-1522-02, 79-1522-04, and 79-1522-05 566 to 572 of this act. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies;

(23) Service annuity shall mean means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(24) State deposit shall mean means the deposit by the state in the retirement system on behalf of any member;

(25) State school official shall mean means the Commissioner of Education and his or her professional staff and the assistant commissioner of education in charge of vocational education and his or her professional staff;

(26) Savings annuity shall mean means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(27) Emeritus member shall mean means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-1512 551 of this act, (b) who has thereafter been reemployed in any capacity by a public school in Nebraska or has become a state school official or county school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

(28) Primary carrier shall mean means the life insurance companies and trust companies designated as the underwriter or trustee of the retirement system;

(29) Actuarial equivalent shall mean means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1971 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making these determinations;

(30) Retirement date shall mean means the first day of the month following the date upon which a member's request for retirement is received on an application form provided by the retirement system if the member has ceased employment in the school system. An application may be filed no more than ninety days in advance of the date on which a member ceases employment in the school system;

(31) Disability retirement date shall mean means the first day of the month following the date upon which a member's request for disability retirement is received on an application form provided by the retirement system if the member has ceased employment in the school system and has complied with sections 79-1523 to 79-1526 585 to 589 of this act as such sections refer to disability retirement; and

(32) Retirement application form shall mean means the form approved by the retirement system for acceptance of a member's request for either regular or disability retirement.

Sec. 538. Section 79-1502, Reissue Revised Statutes of Nebraska, is amended to read:

79-1502. A school retirement system is hereby established for the

purpose of providing retirement allowances or other benefits for the school employees of the State of Nebraska as provided in the School Employees Retirement Act. It shall have the powers and privileges of a corporation, insofar as may be necessary to carry out the provisions of the act, shall be known as the School Retirement System of the State of Nebraska, and by such name shall transact all business as provided in the act.

Sec. 539. Section 79-1503, Revised Statutes Supplement, 1995, is amended to read:

~~79-1503-~~ The general administration of the School Retirement System of the State of Nebraska, except the investment of funds, is hereby vested in the retirement board. The board shall, by a majority vote of its members, adopt bylaws and adopt and promulgate rules and regulations, from time to time, to carry out the School Employees Retirement Act which shall include provisions defining what constitutes compensation of a member of the retirement system for purposes of the act. The definition of compensation shall include base salary or wages paid by the employer to the employee, including overtime pay for services rendered, and any other amounts determined by the board to appropriately constitute compensation. Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993. The board shall perform such other duties as may be required to execute the provisions of the act.

Sec. 540. Section 79-1503.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-1503.01-~~ ~~It shall be the duty of the board~~ The retirement board shall:

(1) ~~To determine~~ Determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of dispute between an individual and a department;

(2) ~~To adopt~~ Adopt rules and regulations for the management of the board;

(3) ~~To prescribe~~ Prescribe forms which shall be used by employers to report contributions, hours worked by school employees, payroll information, and other information necessary to carry out the board's duties;

(4) ~~To keep~~ Keep a complete record of all proceedings taken at any meeting of the board;

(5) ~~To employ~~ Employ a director and other assistance as may be necessary in the performance of its duties; and

(6) ~~To obtain~~ Obtain actuarial services pursuant to subdivision (2)(g) of section 84-1503.

Sec. 541. Section 79-1503.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1503.02-~~ The director in charge of the retirement system shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts as may be necessary in the administration of the School Employees Retirement Act. For the purpose of obtaining such facts, the director shall have access to the records of the various employers and state departments and agencies. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

Sec. 542. Section 79-1505, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1505-~~ The Attorney General shall be the legal advisor of the board.

Sec. 543. Section 79-1506, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1506-~~ The State Treasurer shall be the custodian of the funds and securities of the retirement system. All disbursements therefrom shall be paid by him ~~or her~~ only upon vouchers duly authorized by the retirement board under regulations prescribed by it. ~~He~~ The State Treasurer shall furnish annually to the retirement board a sworn statement of the amount of the funds in his ~~or her~~ custody belonging to the retirement system, which statement shall be as of the fiscal year ending June 30 of each year.

Sec. 544. Section 79-1508, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1508-~~ ~~It shall be the duty of the~~ The Auditor of Public Accounts ~~to shall~~ make an annual audit of the ~~school~~ retirement system and an annual report to the Clerk of the Legislature of its condition. Each member of the Legislature shall receive a copy of such report by making a request for it to

the Auditor of Public Accounts. Expenses of the audit shall be paid from the Expense Fund.

Sec. 545. Section 79-1509, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1509-~~ The membership of the retirement system shall be composed as follows: (1) All persons who become school employees after September 1, 1945, except those specifically excluded under sections ~~79-1512 and 79-1513 551 and 554 of this act~~, shall become members as soon as they become senior school employees; (2) senior school employees on July 1, 1945, except those specifically excluded in sections ~~79-1512 and 79-1513 551 and 554 of this act~~, shall be members of the retirement system as of July 1, 1945, unless prior to October 1, 1945, any such employee shall have filed with the retirement board and with his or her employer a notice of his or her election not to be included in the membership of the system and a duly executed waiver of all the present and prospective benefits which would otherwise inure to him or her on account of his or her membership in the retirement system; and (3) emeritus members.

Sec. 546. Section 79-1509.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1509.01-~~ Any emeritus member may retire upon his or her written application to the retirement board, to be effective upon the termination of his or her employment in any public school or in any position covered by the retirement system.

Sec. 547. Section 79-1509.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1509.02-~~ All school employees not required to hold a certificate, diploma, or credentials to practice in a professional capacity who had previously elected not to be included in the retirement system pursuant to section ~~79-1509 545 of this act~~ may, after January 1, 1978, and prior to July 1, 1978, file with the retirement board an election to be included in the membership of the retirement system, but such employees shall be treated as new employees and no service credit shall be granted for the years the employees elected out of the retirement system.

Sec. 548. Section 79-1509.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1509.03-~~ All school employees not required to hold a certificate, diploma, or credentials to practice in a professional capacity who are employed after January 1, 1978, and prior to July 1, 1978, shall have until June 30, 1978, to file with the retirement board an election not to be included in the membership of the retirement system established pursuant to ~~Chapter 79, article 15, and such the School Employees Retirement Act.~~ The election shall be in writing on forms prescribed by the retirement board, and any person so electing waives all rights within the system except to a refund of his or her accumulated contributions. All such employees employed on or after July 1, 1978, shall become members of such retirement system as soon as they are employed and shall not have a right to elect out of such retirement system.

Sec. 549. Section 79-1510, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1510-~~ Junior school employees may voluntarily elect to hold membership in the system, at any time prior to their twenty-first birthday anniversary, by filing a notice of such election with the retirement board and a copy with the employer. Junior school employees, who have so elected to hold membership, shall have all the rights, duties, and privileges of senior school employees. Any senior school employee or junior school employee who is or becomes a county school official shall be required to be a member of the retirement system. Any senior school employee or junior school employee who is a state school official shall not be required to be a member of the retirement system.

Sec. 550. Section 79-1511, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1511-~~ Persons residing outside of the United States and engaged temporarily as school employees in the State of Nebraska shall not become members of the retirement system.

Sec. 551. Section 79-1512, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1512-~~ At the time of retirement of any employee who serves a public school operating under any other regularly established retirement or pension system, the retirement board shall, upon receipt of a certification from the public school as to the number of years of service upon which the retirement is based, order the primary carrier to transfer to the funds of the retirement system of which such employee is a member the actuarial value of

the service annuity to be paid by the state for the years of service thus certified in the same amount and basis as provided for members of the state retirement system under sections 79-1522 ~~and 79-1524~~ 568 and 587 of this act. Such employee, in order to qualify for prior service credit toward a service annuity, shall have the same qualifications as members of the School Retirement System of the State of Nebraska who became members on or before July 1, 1950, as provided by section 79-1515 561 of this act but shall not come under the provisions of the School Employees Retirement Act while so employed. Such transfer of actuarial value to the retirement system of which such employee is a member shall be in lieu of the payment of the service annuity to which he or she would be entitled on the condition that the monthly payment received by him or her from such system shall be in the amount not less than the sum of his or her service annuity and the member's annuity which is the actuarial equivalent of his or her own contributions accumulated at interest to retirement. The public school which such employee serves shall furnish to the retirement board all information required by the retirement board regarding service records of its employees. No member shall receive a retirement benefit from the retirement system covering years for which he or she is being paid a benefit under sections 79-1032 to 79-1060 613 to 651 of this act.

In addition to the transfer of the actuarial value of the service annuity to be paid by the state, the state shall also transfer to the funds of any other regularly established retirement or pension system for public school employees an amount determined by multiplying the compensation of all members of the other regularly established retirement or pension system for public school employees by the percent specified in section 79-1540 601 of this act for determining the amount of the state's payment to the School Employers Deposit Account. The transfer shall be made annually on or before July 1 of each fiscal year.

Sec. 552. Section 79-1514.10, Revised Statutes Supplement, 1995, is amended to read:

~~79-1514-10-~~ Within the first thirty days of employment, a school employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time or a part-time employee as described in section 79-1501 537 of this act. Such credit shall not be included as years of service in the benefit calculation.

Sec. 553. Section 79-1514.11, Revised Statutes Supplement, 1995, is amended to read:

~~79-1514-11-~~ For one year after September 9, 1995, any school employee employed on or before September 9, 1995, may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time or a part-time employee as described in section 79-1501 537 of this act. Such credit shall not be included as years of service in the benefit calculation.

Sec. 554. Section 79-1513, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1513-~~ Any person who is employed by the Board of Regents of the University of Nebraska shall not come under the provisions of the School Employees Retirement Act.

Sec. 555. Section 79-1565, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1565-~~ (1) An individual who was, prior to July 19, 1980, a state school official as defined in section 79-1501 and did not become a member of the State Employees Retirement System of the State of Nebraska pursuant to Chapter 84, article 13, the State Employees Retirement Act may, within sixty days after September 1, 1986, elect to become a member of such system. An individual so electing shall pay the contributions required by such system when the service and minimum age requirements have been met.

(2) An individual who is currently a school employee as defined in section 79-1501 or who was employed in an out-of-state or a Class V school district and who becomes employed by the State Department of Education after July 1, 1989, regardless of position, may file with the retirement board an election to become or remain a member of the School Retirement System of the State of Nebraska, or, within thirty days after employment in the department, the individual may file an election to become a member of the State Employees Retirement System of the State of Nebraska. The individual shall pay the contributions required by the system which he or she elects when all eligibility requirements are met.

(3) If the employee elects to join the State Employees Retirement System of the State of Nebraska, such employee shall be eligible for immediate participation in the State Employees Retirement System of the State of Nebraska with no minimum period of service if the minimum age and length of service requirements under the State Employees Retirement System of the State of Nebraska or the School Retirement System of the State of Nebraska have been met and the requirements met are equal to the requirements of the State Employees Retirement System of the State of Nebraska.

(4) A state school official employed by the State Department of Education after July 1, 1989, may elect to become a member of the School Retirement System of the State of Nebraska or the State Employees Retirement System of the State of Nebraska.

(5) An employee electing not to be covered by the School Retirement System of the State of Nebraska under this section shall not be subject to section 79-1529 592 of this act but shall be allowed to retain his or her accumulated contribution in the system and continue to become vested in the state's accumulated contribution as well as the State Employees Retirement System of the State of Nebraska according to the following:

(a) The years of participation in the School Retirement System of the State of Nebraska before an election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with the five-year service requirement provided under section 79-1522 568 of this act; and

(b) The years of participation in the School Retirement System of the State of Nebraska before the election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with section 84-1321.

Sec. 556. Section 79-1514, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1514.~~ The membership of any person in the retirement system shall cease only if he or she (1) withdraws his or her accumulated contributions under section 79-1527 590 of this act, (2) retires on a school or formula or disability retirement allowance, or (3) dies. The retirement board shall reinstate to membership, with the same status as when such membership ceased, a school employee who has withdrawn his or her accumulated contributions if he or she again becomes an employee and if such employee chooses to repay, within three years of the date on which he or she rejoins the retirement system, to the retirement board part or all of the amount he or she has withdrawn plus interest which would have accrued on that amount under the retirement system. If the school employee chooses not to repay such withdrawals with interest, the school employee shall enter the system as a new member with no prior rights.

Sec. 557. Section 79-1514.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1514.01.~~ Commencing July 1, 1985, a beneficiary retired under the School Employees Retirement Act who returns to employment as a school employee, except for members retired under sections 79-1523 to 79-1526 586 to 589 of this act, may waive the payments and return to regular employment in a public school of this state if the beneficiary notifies the retirement board in advance of the time and place of such employment and that he or she will become a member of the retirement system. The notice shall be in writing upon forms prescribed by the retirement board. Any person collecting retirement payments without filing such notice shall be subject to a withholding of future retirement benefits equal to twice the amount collected after being regularly employed.

Upon termination of such employment, if the beneficiary notifies the retirement board in writing upon forms prescribed by such board, his or her school retirement allowance under the option previously elected, specified under group annuity contract if one exists or under the option permitted by the retirement board if no group annuity contract exists, shall be reinstated.

For any service credit earned after returning to employment, upon rereirement such member shall become eligible for the retirement allowance provided in sections 79-1522 and 79-1522.01 568 and 569 of this act. At the option of the terminating member, such annuity may commence at any time after such member attains the age of sixty and before his or her sixty-fifth birthday on an actuarially reduced basis. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments.

At any time before the new retirement date, a member may elect to receive his or her new school retirement allowance under any optional form

specified in the group annuity contract if one exists or under any optional form permitted by the retirement board if no group annuity contract exists. Such optional annuity shall be the actuarial equivalent of the normal form of the annuity.

Sec. 558. Section 79-1514.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1514.02-~~ Until July 1, 1985, if a member of the retirement system retires, again becomes a school employee and a member of the retirement system, and then retires, the member's benefit upon reretirement shall consist of his or her original retirement benefit and the additional benefit earned as a result of employment following prior retirement. The original benefit shall be reinstated and shall continue in the same amount and in the same form or option as was previously elected. The additional benefit earned shall be computed as follows:

(1) A benefit shall be calculated based on the member's total service and compensation record and the statutes in effect at the time of reretirement. This benefit shall not be reduced for early retirement and shall be calculated under the life-only option;

(2) The member's original retirement benefit shall be calculated under the life-only option without any adjustments for early retirement, deferred retirement, or election of optional forms; and

(3) The additional benefit earned shall be the excess, if any, of the benefit calculated in subdivision (1) of this section over the benefit calculated in subdivision (2) of this section, adjusted if necessary to reflect early retirement or the election of an optional form other than the life-only option.

Sec. 559. Section 79-1514.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1514.05-~~ The retirement board may adopt and promulgate rules and regulations to allow for lump-sum or installment payments for school employees who elect to buy credit for prior years of service under sections 79-1514 and ~~79-1522 556 and 568 of this act.~~ Any person who elects to buy credit for prior years of service on an installment basis may be charged reasonable service costs, shall be credited with those prior years of service only as the money is actually received by the retirement system, and shall have paid to the retirement system all installments prior to the commencement of a retirement annuity.

Sec. 560. Section 79-1514.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1514.06-~~ Any person who is now a school employee or becomes a school employee and who had elected out of the retirement system between July 1, 1945, and October 1, 1945, and subsequently elected into the retirement system may elect to repay the retirement system for any number of years of service for which he or she would have contributed had he or she not elected out of the retirement system. The amount to be repaid shall not exceed the amount of the contributions which would have been paid into the retirement system based on the compensation and years of service as a school employee as verified by school officials plus the interest which would have accrued on the amount under the retirement system. This section shall not apply to school employees who retire prior to January 1, 1987.

Sec. 561. Section 79-1515, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1515-~~ Under such rules and regulations as the retirement board adopts and promulgates, each person who was a school employee at any time prior to the establishment of the retirement system and who becomes a member of the retirement system shall, within two years after becoming a member, file a detailed statement of all service as a school employee rendered by him or her prior to the date of establishment of the retirement system. In order to qualify for prior service credit toward a service annuity, a school employee, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, must have completed four years of service on a part-time or full-time basis during the five calendar years immediately preceding July 1, 1945, or have completed eighteen years out of the last twenty-five years prior to July 1, 1945, full time or part time, and two years out of the five years immediately preceding July 1, 1945, full time or part time, or such school employee must complete, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, four years of service within the five calendar years immediately following July 1, 1945. In order to qualify for prior service credit toward a service annuity, a school employee who becomes a member of the School Retirement System of the State of Nebraska on or before September 30, 1951, or from July 1, 1945, to the date of becoming

a member shall have been continuously employed in a public school in Nebraska operating under any other regularly established retirement or pension system.

Any person who, after having served or signing a contract to serve as a school employee, entered into and served or enters into and serves in the armed forces of the United States during a declared emergency or was drafted under a federal mandatory draft law into the armed forces of the United States during a time of peace, as described and prescribed under such rules and regulations as the retirement board adopts and promulgates, and who, within three calendar years after honorable discharge or honorable separation from active duty or within one year from the date of completion of training provided in the Federal Servicemen's Readjustment Act of 1944 or the federal Veterans Readjustment Assistance Act of 1952, became or becomes a school employee shall be credited, in determining benefits due such member from the school retirement system, for a maximum of four years or a maximum of five years if the fifth year is at the request and for the convenience of the federal government of the time actually served in the armed forces as if such person had been a school employee throughout such time.

Retirement benefits for persons who have retired prior to April 18, 1992, shall not be affected by changes made to this section which become effective on such date.

Sec. 562. Section 79-1516, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1516-~~ The retirement board shall fix and determine, by rules and regulations, how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be credited for all service in one fiscal year. Full-time service rendered for the regular school year in any district shall be equivalent to one year's service. Part-time service, representing at least half-time employment on contract, shall be credited as individual years of fractional employment in proportion to the ratio the part-time service bears to the amount of time considered to be full-time service.

Sec. 563. Section 79-1517, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1517-~~ Subject to the restrictions herein in the School Employees Retirement Act and to such rules and regulations as ~~the retirement board~~ may adopt, the retirement board shall verify, as soon as practicable after the filing of statements of service, the service therein claimed in the statements.

Sec. 564. Section 79-1518, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1518-~~ Upon verification of the statements of service, the retirement board shall issue prior service certificates stating, for each member with a valid claim, the length of service in this state, rendered prior to the day of the establishment of the retirement system, with which ~~he the~~ member is credited on the basis of his or her proof of service. Any ~~PROVIDED;~~ ~~that any member may,~~ within one year from the date of issuance or modification of such certificate, request the retirement board to modify or correct his or her prior service certificate.

Sec. 565. Section 79-1519, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1519-~~ At retirement, the total service credited to a school employee shall consist of all his or her service as school employee since he or she became a member and his or her verified creditable prior service.

Sec. 566. Section 79-1520, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1520-~~ Upon filing a retirement application with the retirement system, a member who has completed thirty-five years of creditable service may retire at any age or a member who has completed at least five years of creditable service and is at least sixty years of age may retire.

Sec. 567. Section 79-1521, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1521-~~ Payment of any benefit provided under the retirement system may not be deferred later than the sixtieth day after the end of the year in which the member has both attained at least age seventy and one-half years and terminated his or her employment with the school system.

Sec. 568. Section 79-1522, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1522-~~ (1) Upon retirement under section 79-1520, if he or she 566 of this act, if a member or an emeritus member has five or more years of creditable service, a member or emeritus member he or she shall receive a school retirement allowance which shall consist of the sum of: (a) A savings annuity which shall be the actuarial equivalent, as determined by the

retirement board, of the member's accumulated contributions at the time of his or her retirement or, in the case of an emeritus member, the savings annuity fixed by the retirement board at the time of his or her original retirement; and (b) a service annuity to be paid by the State of Nebraska. The amount of any individual service annuity for a full-time school employee or an emeritus member shall be three dollars and fifty cents per month for each year of service commencing with his or her retirement on or after May 19, 1981. Each school employee or emeritus member who retired before July 1, 1973, and who is receiving a service annuity as of that date shall have such service annuity adjusted by the increase in the cost of living as determined by the difference between the Consumers Price Index for Urban Wage Earners and Clerical Workers from the date the service annuity commenced and July 1, 1973, except that such annuity shall not exceed three dollars and fifty cents monthly per year of service based on the same number of years of service that is currently being used to determine his or her service annuity. Such increased service annuity shall commence on July 1, 1973.

(2) Under such rules and regulations as the board may adopt and promulgate, an employee, upon rejoining the retirement system or first becoming a member, may receive credit for not to exceed ten years of creditable teaching service rendered in public schools in another state or schools in this state covered by the school retirement system established pursuant to section 79-1033 614 of this act if such member shall have has paid into the School Retirement System of the State of Nebraska an amount equal to the required deposits he or she would have paid had he or she been employed in this state, plus the interest which would have accrued on such amount, within three years after membership or reinstatement in the retirement system begins.

(3) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-1033 614 of this act in excess of the time he or she has been in service as a school employee in this state.

(4) For a beneficiary who is employed as a public school substitute employee for more than seventy-five percent of the instructional hours in any school year, the state service annuity shall be reduced by fifty percent. A person receiving a retirement benefit may waive the payments and return to regular employment in a public school of this state if the beneficiary notifies the retirement board in advance of the time and place of such employment. This notice shall be in writing upon forms prescribed by the retirement board. Any person collecting retirement payments without filing such notice shall be subject to a withholding of future retirement benefits equal to twice the amount collected after being regularly employed. The amount of individual service annuity for a part-time employee shall be determined on a proportional basis.

(5) Under such rules and regulations as the board may adopt and promulgate, any member who was away from his or her position while on a leave of absence from such position authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for such time as he or she was on leave of absence. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on compensation at the level received immediately prior to the leave of absence. Such credit shall be allowed if such member shall have has paid into the system an amount equal to the sum of the deductions from his or her compensation and any contribution which the school district would have been required to make had he or she continued to receive compensation at the level received immediately prior to the leave of absence, with such deposits plus interest which would have accrued on such deposits to be paid as the board may direct within three years of the termination of his or her leave of absence. Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this subsection shall not exceed four years in length, and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence.

(6) From January 1, 1987, to June 30, 1988, any person who was a school employee in (a) another state or (b) a school in this state covered by

the school retirement system established pursuant to section 79-1033 614 of this act prior to April 20, 1986, and has joined or rejoined the School Retirement System of the State of Nebraska may elect to pay the retirement system for up to ten years of service which he or she accumulated in such other state or retirement system. The amount to be paid shall not exceed the contribution which would have been paid into the School Retirement System of the State of Nebraska based on the compensation and years of service out of state or under the school retirement system established pursuant to section 79-1033 614 of this act earned by the school employee, as verified by officials of the other state or retirement system, plus the interest which would have accrued on such amount under the School Retirement System of the State of Nebraska. Any person who pays such amount shall be given credit for any number of years of service which he or she has elected to pay for, not to exceed ten years of service rendered as a school employee in such other state or retirement system, and shall be given the same status as though he or she had been a member of the School Retirement System of the State of Nebraska for such number of years. This subsection shall not apply to school employees retiring prior to April 20, 1986.

Sec. 569. Section 79-1522.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1522-01.~~ (1) In lieu of the school retirement allowance provided by section 79-1522 568 of this act, any member who is not an employee of a Class V school district and who becomes eligible to make application for and receive a school retirement allowance under section 79-1520 566 of this act may receive a formula annuity retirement allowance if it is greater than the school retirement allowance provided by section 79-1522 568 of this act.

(2) Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of service for which such member would otherwise receive the service annuity provided by section 79-1522 ~~(1)~~ 568 of this act (a) by one and one-quarter percent of his or her final average compensation, ~~(2)~~ (b) by one and one-half percent of his or her final average compensation, ~~(3)~~ (c) by one and sixty-five hundredths percent of his or her final average compensation, or ~~(4)~~ (d) by one and seventy-three hundredths percent of his or her final average compensation. If the annuity begins prior to the sixty-fifth birthday of the member and the member has completed thirty or more years of creditable service and is at least sixty years of age, the annuity shall not be reduced. If the annuity begins on or after the sixtieth birthday of the member and the member has completed five or more but less than thirty years of creditable service, the annuity shall be reduced by three percent for each year by which the member's age is less than the age at which the member's age plus years of service would have totaled ninety or three percent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday, whichever provides the greater annuity. A member shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using one and one-quarter percent of his or her final average compensation as one of the factors, shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 17, 1982, to be eligible for computation of his or her formula annuity using one and one-half percent of his or her final average compensation as one of the factors, or shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1984, to be eligible for computation of his or her formula annuity using one and sixty-five hundredths percent of his or her final average compensation as one of the factors. A member shall be actively employed as a public school employee under the retirement system or under contract with an employer on June 1, 1993, to be eligible for computation of his or her formula annuity using one and seventy-three hundredths percent of his or her final average compensation as one of the factors.

(3) The normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made. A member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-1530 573 of this act.

(4) Final average compensation for full-time employees shall be determined by dividing the member's total compensation subject to required deposits for the three fiscal years in which such compensation was the highest

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

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

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

Sec. 570. Section 79-1522.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1522.02. No provision of section 79-1512, 79-1522.01, 79-1531, 79-1533, or 79-1540 551, 569, 593, 595, or 601 of this act~~ which would result in an increase in benefits that would have been payable prior to July 1, 1984, shall apply to any person until that person has acquired the equivalent of one-half year of service or more as a school employee under the school retirement system following July 1, 1984.

No provision of section ~~79-1522.01, 79-1529, 79-1531, or 79-1533 569, 592, 593, or 595 of this act~~ which would result in an increase in benefits that would have been payable prior to July 1, 1986, shall apply to any person until that person has acquired the equivalent of one-half year of service or more as a school employee under the school retirement system following July 1, 1986.

No provision of section ~~79-1522.01, 79-1529, 79-1531, or 79-1533 569, 592, 593, or 595 of this act~~ which would result in an increase in benefits that would have been payable prior to April 1, 1988, shall apply to any person unless he or she is employed on such date and has acquired five hundred sixteen or more hours as a school employee under the school retirement system during or after fiscal year 1987-88.

Sec. 571. Section 79-1522.04, Revised Statutes Supplement, 1995, is amended to read:

~~79-1522.04. For purposes of this section and section 79-1522.05 572 of this act:~~

(1) 415 compensation ~~shall mean means~~ a member's total compensation for services to the extent such compensation constitutes wages as defined in section 3401(a) of the Internal Revenue Code for purposes of income tax withholding. 415 compensation ~~shall include includes~~ any compensation not included as section 3401(a) wages because of any special rule of section 3401 of the code which excludes compensation based on the nature or location of the services performed. In the event that section 415 of the code is amended to permit the inclusion of certain elective deferrals pursuant to sections 125, 401(k), and 403(b) of the code, deferred compensation pursuant to section 457 of the code, and employee contributions picked up pursuant to section 414(h) of the code, 415 compensation shall include such amounts; and

(2) Limitation year ~~shall mean means~~ the twelve-consecutive-month period beginning on January 1 and ending on December 31. All qualified plans maintained by an employer shall use the same limitation year.

Sec. 572. Section 79-1522.05, Revised Statutes Supplement, 1995, is amended to read:

~~79-1522.05.~~ (1) Notwithstanding any other provision of the School Employees Retirement Act, the benefit provided with respect to any member may not exceed an annual benefit computed in accordance with the limitations

prescribed by this section.

(2) The maximum annual benefit payable in any limitation year to a member may not exceed the lesser of:

(a) Ninety thousand dollars, as adjusted; or

(b) One hundred percent of a member's 415 compensation averaged over the three consecutive limitation years, or the actual number of limitation years for a member whose total service is less than three consecutive limitation years, during which the member had the greatest aggregate 415 compensation from the employer.

(3)(a) For purposes of this section, annual benefit ~~shall mean~~ means a benefit which is payable annually in the form of a straight life annuity under a plan. Such benefit shall not include employee after-tax contributions. Such benefit shall include employee contributions picked up by the employer.

(b) If the retirement benefit is in any form other than a straight life annuity or if after-tax contributions are made by the employee, the benefit shall be adjusted to a straight life annuity beginning at the same age which is the actuarial equivalent of such benefit. The interest rate assumption for such adjustment shall be not less than the greater of five percent or the rate specified in the plan.

(c) No adjustment shall be required for a qualified joint and survivor annuity, preretirement disability and death benefits, postretirement medical benefits, or postretirement cost-of-living increases in accordance with section 415(d) of the Internal Revenue Code.

(4) Benefits provided to a member under this section and under any defined benefit plan or plans maintained by an employer shall be aggregated for purposes of determining whether the limitations in subsection (2) of this section are met. If the aggregate benefits otherwise payable from any qualified plans created under the School Employees Retirement Act and any other defined benefit plan or plans maintained by an employer otherwise exceed the limitations of this section, the reductions in benefits shall first be made to the extent possible from the other plan or plans.

(5) The adjustments on retirement shall be the following:

(a) If the annual benefit begins before a member attains age sixty-two, the ninety-thousand-dollar limitation, as adjusted, shall be reduced in a manner prescribed by the Secretary of the Treasury of the United States. The adjustment shall not reduce the member's annual benefit below seventy-five thousand dollars if the member's benefit begins at or after age fifty-five or below the actuarial equivalent of seventy-five thousand dollars for age fifty-five if benefits begin before age fifty-five; and

(b) If the annual benefit begins after a member attains age sixty-five, the ninety-thousand-dollar limitation, as adjusted, shall be increased so that it is the actuarial equivalent of the ninety-thousand-dollar limitation at age sixty-five.

(6)(a) The dollar limitation on annual benefits provided by subsection (2) of this section, but not the seventy-five-thousand-dollar limitation provided by subsection (5) of this section, shall be adjusted annually as provided by section 415(d) of the code and the regulations prescribed by the Secretary of the Treasury of the United States. The adjusted limitation shall be effective as of January 1 of each calendar year and shall be applicable to limitation years ending with or within that calendar year.

(b) The limitations provided by this section for a member who has separated from service with a vested right to a pension shall be adjusted annually as provided by section 415(d) of the code and the regulations prescribed by the Secretary of the Treasury of the United States.

(7) The following interest rate assumptions shall be used in computing the limitations under this section:

(a) For the purpose of adjusting the ninety-thousand-dollar limitation before a member attains age sixty-two, the interest rate assumption shall be not less than the greater of five percent or the rate specified in the plan; and

(b) For the purpose of adjusting the ninety-thousand-dollar limitation after a member attains age sixty-five, the interest rate assumption shall not be greater than the lesser of five percent or the rate specified in the plan.

(8) An annual benefit may be paid to any member in excess of the member's maximum annual benefit otherwise allowed if:

(a) The annual benefit derived from the employer contributions under the retirement system and all defined benefit plans maintained by the employer does not in the aggregate exceed ten thousand dollars for the limitation year or for any prior limitation year; and

(b) The member has not at any time participated in a defined contribution plan maintained by the employer. For purposes of this section, member contributions to the plan shall not be considered a separate defined contribution plan maintained by the employer.

(9) If a member has less than ten years of participation in the retirement system at the time the member begins to receive benefits, the ninety-thousand-dollar limitation, as adjusted, shall be reduced by multiplying the limitation by a fraction in which the numerator is the number of years of participation in the plan and the denominator is ten, except that the fraction may not be less than one-tenth. The one-hundred-percent limitation under subdivision (2)(b) of this section, the ten-thousand-dollar limitation of subsection (8) of this section, and the limitation calculated pursuant to subsection (10) of this section shall be reduced in the same manner as provided by this subsection, except that the numerator shall be the number of years of employment with the employer rather than years of participation.

(10) If a member is or has participated in one or more defined benefit plans and one or more defined contribution plans maintained by the employer, the following provisions shall apply:

(a) The sum of the defined benefit plan fraction and the defined contribution plan fraction for any limitation year may not exceed 1.0;

(b) The defined benefit plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the projected annual benefit of a member, determined as of the close of the limitation year; and

(ii) The denominator is the lesser of:

(A) The product of 1.25 and the maximum dollar limitation provided by subdivision (2)(a) of this section, as adjusted, for the limitation year; or

(B) The product of 1.4 and the amount that may be taken into account under subdivision (2)(b) of this section for the limitation year.

If the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than one hundred twenty-five percent of the sum of the annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plan after May 6, 1986;

(c) The defined contribution plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the sum of the annual additions to the member's account as of the close of the limitation year; and

(ii) The denominator is the sum of the lesser of the following amounts determined for the limitation year and each prior year of service with the employer:

(A) The product of 1.25 and the dollar limitation in effect under section 415(c)(1)(A) of the code for the limitation year, determined without regard to section 415(c)(6) of the code; or

(B) The product of 1.4 and the amount that may be taken into account under section 415(c)(1)(B) of the code for the limitation year beginning before January 1, 1987.

If the member was a member as of the end of the first day of the first limitation year beginning after December 31, 1986, in one or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, the numerator of this fraction shall be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0. Under the adjustment, an amount equal to the product of the excess of the sum of the fractions over 1.0 times the denominator of this fraction shall be permanently subtracted from the numerator of this fraction. The adjustment shall be calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plan made after May 5, 1986, but using the section 415 limitation of the code applicable to the first limitation year beginning on or after January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions; and

(d) If the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds 1.0 in any limitation year for any member of any plan within the retirement system, the board shall limit, to the extent necessary, the annual additions to the member's account for that limitation year. If after limiting to the extent possible the annual additions to the

member's account for the limitation year the sum of the defined benefit plan fraction and the defined contribution plan fraction still exceeds 1.0, the board shall adjust the benefits under the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any limitation year for the member.

(11) For purposes of determining the limits provided by this section, all qualified defined benefit plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined benefit plan, and all qualified defined contribution plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined contribution plan.

(12) Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed by this section shall at all times comply with the requirements of section 415 of the code and all regulations promulgated under the code. If any provision of section 415 of the code is repealed or is not enforced by the Internal Revenue Service pursuant to a published notice, rule, or regulation, that provision may not reduce the benefits of any member after the effective date of the repeal of the provision or during the period in which the provision is not enforced.

Sec. 573. Section 79-1530, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1530-~~ At any time before the retirement date a member may elect to receive his or her school retirement allowance or his disability retirement allowance under any optional form specified in the group annuity contract, if one exists, or under any optional form permitted by the retirement board, if no group annuity contract exists. Such optional annuity shall be the actuarial equivalent of the normal form of the annuity.

Sec. 574. Section 79-1557, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1557-~~ All benefits under the retirement system shall be paid as directed by the retirement board.

Sec. 575. Section 79-1558, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1558-~~ Commencing September 1, 1980, the Public Employees Retirement Board retirement board shall determine a supplemental retirement benefit for each person who is retired from the school retirement system or School Retirement System of the State of Nebraska or from the retirement system for Class V districts as provided by sections 79-1032 to 79-1060 613 to 651 of this act with twenty-five or more years of creditable service as of July 1, 1980. The computation and payment to persons shall be determined with the funds available as of January 1, 1981. Any person who would have been eligible for the supplemental retirement benefits provided under this section if sections 79-1558, 79-1560, 79-1561, and 79-1562 this section and sections 577 to 579 of this act had been operative on January 1, 1981, but who did not, during the months of January and February 1981, receive such benefits shall be entitled to an accumulated payment for such months to be made in March 1981.

Sec. 576. Section 79-1559, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1559-~~ For purposes of sections ~~79-1558 to 79-1564~~ 575 to 581 of this act, unless the context otherwise requires, total monthly benefit shall mean means the benefit that would have been received under a monthly life annuity with no refund or death benefit option even though a different option, as provided in section ~~79-1530 573 of this act~~, has been selected. The total monthly benefit shall be computed as if the person had retired at age sixty-five or at the actual age of retirement, whichever is later.

Sec. 577. Section 79-1560, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1560-~~ For each person who qualifies under sections ~~79-1558 to 79-1564 575 to 581 of this act~~, the Public Employees Retirement Board retirement board shall determine the value of the total monthly benefit being received from the school retirement system or School Retirement System of the State of Nebraska or from the retirement system for Class V districts as provided by sections 613 to 651 of this act. From one hundred fifty-five dollars, the Public Employees Retirement Board retirement board shall subtract the total monthly benefit. Such difference, if positive, shall be the supplemental benefit and shall be paid to the retired person each month from the Retired Teachers Supplementary Benefits Fund, except that if this difference is less than five dollars, a minimum payment of five dollars per month shall be made to such person. Such fund shall be separate and not commingled with any other state funds allocated to the school retirement system or School Retirement System of the State of Nebraska or to the

retirement system for Class V districts as provided by sections 613 to 651 of this act.

Sec. 578. Section 79-1561, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1561-~~ Section 79-1560 577 of this act shall not apply to any retired person who receives a service annuity less than the amount provided in sections 79-1522 and 79-1530 568 and 573 of this act.

Sec. 579. Section 79-1562, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1562-~~ If a beneficiary is receiving the annuity provided through the school retirement system or School Retirement System of the State of Nebraska or through the retirement system for Class V districts as provided by sections 613 to 651 of this act, the supplemental benefit shall be the benefit that would be computed under section 79-1560 577 of this act had the deceased retired person still been alive. The beneficiary will continue to receive the supplemental benefit until the expiration of the annuity option selected by the member.

Sec. 580. Section 79-1563, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1563-~~ If a retiree eligible for the supplemental benefit under section ~~79-1560~~ 577 of this act dies subsequent to July 19, 1980, the beneficiary shall be entitled to the supplemental benefit until the expiration of the annuity option selected by the retired member.

Sec. 581. Section 79-1564, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1564-~~ There is hereby established a fund, to The Retired Teachers Supplementary Benefits Fund is created. The fund shall be administered by the Public Employees Retirement Board; to be known as the Retired Teachers Supplementary Benefits Fund retirement board. This fund shall be considered an express obligation of the state. The appropriation for such fund shall be determined by the Public Employees Retirement Board retirement board as of January 1 of each odd-numbered year and included in the biennial budget to be adopted by the regular session of the Legislature held in each odd-numbered year.

Sec. 582. Section 79-1566, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1566-~~ (1) Commencing October 1, 1988, the Public Employees Retirement Board retirement board shall determine an adjusted supplemental retirement benefit to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement for each person who is retired from the School Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by sections 79-1032 to ~~79-1060~~ 613 to 651 of this act with twenty-five or more years of creditable service as of October 1, 1988.

(2) For each person who qualifies under subsection (1) of this section, the retirement board shall determine the value of the total monthly benefit being received from the School Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by sections 613 to 651 of this act and the supplemental benefit provided by section 79-1560 577 of this act if applicable. From two hundred fifty dollars, the board shall subtract the total monthly benefit. Such difference, if positive, shall be the adjusted supplemental retirement benefit and shall be paid to the retired person each month, except that if this difference is less than five dollars, a minimum payment of five dollars per month shall be made to such person. The adjusted supplemental retirement benefit shall be paid to a retired person during his or her life.

(3) The retirement board may buy a paid-up annuity for a retired person which guarantees the adjusted supplemental retirement benefit provided under this section.

(4) The adjusted supplemental retirement benefit provided under this section shall be funded from the Contingent Account but only from such income which would be paid to the School Employees Savings Account and the School Employers Deposit Account.

Sec. 583. Section 79-1552, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1552-~~ The right of a person to an annuity, an allowance, or any optional benefit under the School Employees Retirement Act, any other right accrued or accruing to any person or persons under such act, the various funds and accounts created thereby, and all the money, investments, and income thereof shall be exempt from any state, county, municipal, or other local tax, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and

shall not be assignable except to the extent that such annuity, allowance, or benefit is subject to a qualified domestic relations order as such term is defined in section 414(p) of the Internal Revenue Code.

Sec. 584. Section 79-1553, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1553.~~ Any person who knowingly makes any false statement or falsifies or permits to be falsified any record or records for the purpose of defrauding or attempting to defraud the School Retirement System of the State of Nebraska shall be guilty of a Class II misdemeanor. Any school employee, member of a school board or board of education, or agent of any employer, who willfully fails or refuses to furnish to the retirement board upon its request and in the manner prescribed by it such information, data, or records, as may be necessary for carrying into effect the School Employees Retirement Act, shall be guilty of a Class V misdemeanor.

Sec. 585. Section 79-1544, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1544.~~ All acts and decisions of the retirement board shall be subject to review, reversal, modification, or approval by the retirement board, on its own motion or on the complaint of a member, under such rules as ~~it~~ the retirement board may prescribe. Any teacher or other person, who deems himself or herself aggrieved by any action of the retirement board, may appeal to and have the same reviewed by the retirement board under such rules as ~~it~~ the retirement board shall prescribe. Any final order made by the retirement board after review may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 586. Section 79-1523, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1523.~~ A member shall be retired on account of disability, either upon his or her own application or the application of his or her employer or a person acting in his or her behalf, if a medical examination, made at the expense of the retirement system and conducted by a competent disinterested physician who is duly licensed to practice medicine in this state selected by the retirement board, shows and the physician certifies to the retirement board that the member is physically or mentally incapacitated for the further performance of duty as a school employee and ought to be retired. The member shall have one year from the date he or she ceases employment in a public school located in Nebraska in which to make application for disability retirement benefits. Any application for retirement on account of disability shall be made on an application form provided by the retirement system.

Sec. 587. Section 79-1524, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1524.~~ Upon retirement for disability, a member shall receive a disability retirement allowance which shall consist of a savings annuity and a service annuity computed in the manner specified in section 79-1522 ~~568 of this act~~ or, in lieu thereof, the formula annuity computed in the manner specified in section 79-1522-01 ~~569 of this act~~ without the reduction to the actuarial equivalent of the formula annuity deferred to the sixty-fifth birthday of the member.

Sec. 588. Section 79-1525, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1525.~~ The retirement board may require any disability beneficiary, who has not yet attained the age of sixty-five years, to undergo a medical examination once each year. Such an examination shall be made (1) at the place of residence of ~~said~~ the beneficiary or other place mutually agreed upon, (2) at the expense of the retirement system, and (3) by a physician, duly licensed to practice medicine in this state, designated by the retirement board. ~~Should~~ If any disability beneficiary, who has not yet attained the age of sixty-five years, willfully ~~refuse~~ refuses to submit to at least one such medical examination in any fiscal year, his or her allowance may be discontinued until his or her withdrawal of such refusal. If such refusal ~~shall continue~~ continues for one year, his or her rights in and to his or her disability retirement allowance may be revoked by the retirement board.

Sec. 589. Section 79-1526, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1526.~~ ~~Should~~ If a disability beneficiary, under the age of sixty-five years, be is restored to active service as a school employee or ~~should the examining physician certify if the examining physician certifies~~ that the person is no longer disabled for service as a school employee, ~~his~~ the school or disability retirement allowance shall cease. If ~~he~~ the beneficiary again becomes a school employee, he or she shall become a member of the retirement system. Any prior service certificate, on the basis of which his or her creditable service was computed at the time of his or her

retirement for disability, shall be restored to full force and effect upon his or her again becoming a member of such retirement system.

Sec. 590. Section 79-1527, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1527-~~ If a member ceases to be a school employee for any cause other than death or retirement, the retirement board shall, upon his or her demand, terminate his or her membership in the retirement system and order the primary carrier to pay such member the accumulated contributions standing to the credit of his or her individual account in the School Retirement Fund. Any member who attains or has attained membership in another Nebraska state or school retirement system authorized by the Legislature and who elects not to be or remain a member of the ~~retirement system~~ School Retirement System of the State of Nebraska shall have his or her accumulated contributions returned to him or her forthwith.

Sec. 591. Section 79-1528, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1528-~~ (1) If a member dies before retirement, his or her accumulated contributions shall be paid to his or her estate or to the person he or she has nominated by written designation duly executed and filed with the retirement board. If no legal ~~representatives~~ representative or beneficiary designated in writing applies for ~~his or her such~~ accumulated contributions within five years following (a) ~~his or her the deceased member's~~ sixty-fifth birthday if death occurred prior to such date or (b) the date of ~~his or her the deceased member's~~ death if death occurred after ~~his or her the deceased member's~~ sixty-fifth birthday, the contributions shall be forfeited to the retirement system and credited to the Contingent Account at that time.

(2) When the deceased member has not less than twenty years of creditable service regardless of age or dies on or after his or her sixty-fifth birthday and leaves a surviving spouse who has been designated in writing as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within ninety days after the death of the member, to receive an annuity which shall be equal to the amount that would have accrued to the member had he or she elected to have the retirement annuity paid as a joint and survivor annuity payable as long as either the member or the member's spouse should survive and had the member retired (a) on the date of death if his or her age at death is sixty-five years or more or (b) at age sixty-five years if his or her age at death is less than sixty-five years. If the requirements of this subsection are not met, then the beneficiary or the estate, if the member has not filed a written statement with the board naming a beneficiary, shall be paid a lump sum equal to all contributions to the fund made by such member plus regular interest.

(3) Benefits to which a surviving spouse, beneficiary, or estate of a member shall be entitled pursuant to subsections (1) and (2) of this section shall commence immediately upon the death of such member.

Sec. 592. Section 79-1529, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1529-~~ If any member ceases to be a school employee for any reason other than death, before qualifying for retirement under section ~~79-1520~~ 566 of this act, the ~~retirement~~ board shall, upon request, issue him or her a certified service record and statement of accumulated contributions and retain such member's accumulated contributions. In such event, no further contributions shall be required, interest on accumulated contributions shall continue to be credited to his or her account, and none of the member's retirement rights shall be canceled. At age sixty-five or after thirty-five years of creditable service, such member shall become eligible to receive the retirement allowance provided in sections ~~79-1522 and 79-1522-01~~ 568 and 569 of this act. Any deferred formula annuity provided shall be based on the member's compensation preceding the date of termination as if the member had retired on his or her date of termination. At the option of the terminating member and if such member has completed at least five but less than thirty-five years of creditable service, such annuity may commence at any time after such member attains the age of sixty years and before his or her sixty-fifth birthday and shall be reduced by the percentages prescribed in section ~~79-1522-01~~ 569 of this act. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments.

Sec. 593. Section 79-1531, Revised Statutes Supplement, 1995, is amended to read:

~~79-1531-~~ (1) For the purpose of providing the funds to be transferred from the School Employees Savings Account for formula annuities, every employee shall be required to make deposits in the School Retirement Fund. Such deposits shall be a percentage of total compensation and shall be

transmitted at the same time and in the same manner as required employer contributions. For each fiscal year, such percentage shall be set by the retirement board, taking into consideration the recommendation of the actuary, and shall be equal to forty-nine and seventy-five hundredths percent of the amount determined by deducting from the then actuarial present value of all future liabilities to be funded by transfers from the School Employers Deposit Account and the School Employees Savings Account the amount then credited to such accounts and dividing the remainder by the actuarial present value of one percent of future compensation for current active members.

(2) For the purpose of providing the funds to be transferred from the School Employers Deposit Account for formula annuities, every employer shall be required to make deposits in the School Retirement Fund. Such deposits shall be one hundred one percent of the required contributions of the school employees of each employer and shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the employer shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction either through a reduction in the cash compensation of the member or a combination of a reduction in compensation and offset against a future compensation increase. Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

Sec. 594. Section 79-1532, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1532-~~ The account of each member in the School Retirement Fund shall be credited with regular interest earned monthly, quarterly, semiannually, or annually as the retirement board may direct.

Sec. 595. Section 79-1533, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1533-~~ Every employer shall deduct and withhold an amount pursuant to section ~~79-1531~~ 593 of this act from the compensation as a school employee of each member on each and every payroll period after such school employee becomes a member of the retirement system. The employer, through its proper agents, the ~~city or superintendent of schools of the school district or the county superintendent, or the secretary of the school board or board of education,~~ shall transmit monthly, quarterly, or semiannually if the retirement board so directs a copy of such payroll, in such form as is approved by the retirement board, and a remittance payable to the order of the State Treasurer for all deductions from the compensation of members on such payroll. The remittances may be by draft, money order, check, or otherwise according to rules and regulations adopted and promulgated by the retirement board. The board may charge the employer a late fee, not to exceed fifty dollars, if the quarterly deduction report, the summary of monthly remittance report, or the monthly money due is not received and properly completed by the date due as prescribed by the board. The board shall charge the employer an amount equal to the interest which would have accrued if the delinquent report causes the employee to lose interest on his or her account. The proceeds of the interest charge shall be used to reimburse the account of each school employee deprived of interest by the delay.

Sec. 596. Section 79-1534, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1534-~~ The retirement board shall immediately transmit to the State Treasurer all payments received. It shall audit the payrolls of all employers, determine the amount deductible from the compensation of members on each payroll, and certify to the amounts so received.

Sec. 597. Section 79-1535, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1535-~~ Every contract of employment with a school employee shall specify that it is subject to the provisions of the state retirement law.

Sec. 598. Section 79-1536, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1536-~~ Every employer and school employee shall send to the

retirement board, upon its request and in the manner required by it, such information as the board may require (1) for the identification of school employees and (2) for the determination of the membership of the retirement system and the obligations of the employer and school employee to the retirement system. If an employee who is qualified for membership fails or refuses to file, within one calendar year of becoming a member, in complete form, a membership registration blank properly identifying the member, fifty dollars shall be transferred from such employee's individual account in the School Retirement Fund to the Service Annuity Account.

Sec. 599. Section 79-1537, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1537-~~ Every employer shall pay to the retirement board the required deposits made by every member in the service of such employer. No employer shall, without the consent of the member, withhold or deduct from any member's compensation on any payroll any amount in excess of the required deduction for the period covered by such payroll.

Sec. 600. Section 79-1538, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1538-~~ Notwithstanding any other law, rule, or regulation affecting the salary, pay, compensation, or tenure of any member, payment of such salary, pay, or compensation to such member, less the required deductions herein provided for in the School Employees Retirement Act, shall be a full and complete discharge and acquittance of all claims for service rendered by such member during the period covered by such payment.

Sec. 601. Section 79-1540, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1540-~~ On the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board shall annually, on or before July 1, determine the state deposit to be made by the state in the Service Annuity Account for that fiscal year. The amount of such state deposit shall be determined on the basis of an annual actuarial valuation to be sufficient to fully fund the service annuities earned in that fiscal year and to fund the unfunded accrued liabilities for all service annuities earned prior to that year by level payments up to January 1, 1994, in the amounts established prior to May 19, 1981. Any increase in the unfunded accrued liability that arises as a result of increasing the amount of the service annuity on or after May 19, 1981, shall increase the state deposit by an amount sufficient to fund the increase in the unfunded accrued liability by level payments for the twenty-five-year period following the date the increase becomes effective. The retirement board shall thereupon certify the amount of such state deposit, and on the warrant of the Director of Administrative Services, the State Treasurer shall, as of July 1 of such year, transfer from funds appropriated by the state for that purpose to the Service Annuity Account the amount of such state deposit.

In addition to the state deposit to the Service Annuity Account, the state shall deposit in the School Employers Deposit Account an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system for each fiscal year on or after July 1, 1984.

Sec. 602. Section 79-1542, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1542-~~ As often as may be necessary, the retirement board shall cause to be made a thorough investigation of the several funds or accounts of the retirement system for the purpose of determining the rates at which the benefits will be granted. It shall make adjustments in such rates as, upon recommendation of the actuary, may appear to be proper for maintaining solvency of the several funds or accounts. No revision of rates shall affect adversely the rights of any beneficiary under an application made prior to such revision. The retirement board shall, from time to time, order and make such distribution of gains and savings to the several funds or accounts as it may deem equitable. The rate per one thousand dollars of savings applied at which savings annuities are granted, on or after July 1, 1968, shall at no time be less than the corresponding rate in use at that time by the primary carrier.

Sec. 603. Section 79-1545, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1545-~~ All assets of the retirement system shall be credited, according to the purpose for which they are held, to the Expense Fund, to the School Employees Retirement System Reserve Fund, or to one of five accounts in the School Retirement Fund, namely, the School Employees Savings Account, the School Employers Deposit Account, the Service Annuity Account, the Annuity Reserve Account, and the Contingent Account. Any money in these accounts or

funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 604. Section 79-1545.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1545.01.~~ The School Employers Deposit Account shall be the account in which the required deposits of the employers are accumulated. Upon the granting of a formula annuity, there shall be transferred from this account to the Annuity Reserve Account the amounts provided by section ~~79-1522.01~~ 569 of this act.

Sec. 605. Section 79-1545.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1545.02.~~ The Service Annuity Account shall be the account in which the required deposits of the state are accumulated. Upon the granting of an annuity, there shall be transferred from this account to the Annuity Reserve Account the amount provided by section ~~79-1522.01~~ 569 of this act plus the value of any additional service annuity.

Sec. 606. Section 79-1546, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1546.~~ The School Employees Savings Account shall be the account in which the required deposits from the compensation of members to provide savings annuities are accumulated. The accumulated contributions of a member, returned to him or her upon his or her withdrawal from membership or paid to his or her estate or designated beneficiary in the event of his or her death as provided in section ~~79-1528~~ 591 of this act, shall be paid from the School Employees Savings Account. Any accumulated contributions forfeited shall be transferred from the School Employees Savings Account to the Contingent Account. The accumulated contributions of a member shall be transferred from the School Employees Savings Account to the Annuity Reserve Account in the event of his or her retirement on a school retirement allowance, a disability retirement allowance, or a formula annuity retirement allowance.

Sec. 607. Section 79-1548, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1548.~~ The Annuity Reserve Account shall be the account into which shall be transferred upon a retirement the accumulated contributions from the School Employees Savings Account, the value of any state service annuity from the Service Annuity Account, and the value, if any, of a contribution from the School Employers Deposit Account upon the granting of a formula annuity and from which shall be paid all savings annuities, service annuities, and formula annuities as provided in the School Employees Retirement Act. If a beneficiary who retired on account of disability is restored to active service, his or her remaining annuity reserve shall be transferred from the Annuity Reserve Account to the School Employees Savings Account and credited to his or her individual account therein in the School Employees Savings Account.

Sec. 608. Section 79-1549, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1549.~~ A Contingent Account is hereby created (1) to facilitate the crediting of regular interest on the amounts in the various other accounts, with the exception of the Expense Fund, (2) to fund the adjusted supplemental retirement benefit provided by section ~~79-1566~~ 582 of this act, and (3) to provide an account to cover any special requirements of the Annuity Reserve Account or the Expense Fund, insofar as the state is responsible for such accounts or fund. All income, interest, and dividends derived from the deposits and investments authorized by the School Employees Retirement Act shall be paid into the Contingent Account. The retirement board may accept gifts, devises, and bequests. Any funds which may come into the possession of the retirement system in this manner or which may be transferred from the School Employees Savings Account by reason of the lack of a claimant or because of a surplus in any fund or account described in section ~~79-1545~~ 603 of this act other than the School Employees Retirement System Reserve Fund, or any other money the disposition of which is not otherwise provided for in the act, shall be credited to the Contingent Account. The interest allowed by the retirement board to each of the funds or accounts shall be paid to such funds or accounts from the Contingent Account or shall be used to fund the adjusted supplemental retirement benefit provided by section ~~79-1566~~ 582 of this act. Any deficit occurring in the Annuity Reserve Account or in the Expense Fund, insofar as the state is responsible for such account or fund, shall be met by payments to the fund or account in question from the Contingent Account. Annually the retirement board shall estimate the amount of money deemed necessary to pay the obligation levied against the Contingent Account, including regular interest. If such amount exceeds the revenue estimated to

accrue to the fund or account for that year, such excess shall be certified to the State Treasurer and shall, on warrant of the Director of Administrative Services, be transferred from funds appropriated by the state for such purpose to the Contingent Account.

Sec. 609. Section 79-1550, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1550-~~ The Expense Fund shall be the fund to which shall be credited the proportionate share of administration expense transferred from the Contingent Account at the direction of the retirement board. All the expenses necessary, in connection with the administration and operation of the retirement system, shall be paid from the Expense Fund. Annually, as soon after July 1 as ~~shall be~~ is practicable, the retirement board shall estimate the amount of money which is deemed necessary to be paid into the Expense Fund for that fiscal year to provide for the expense of operation and administration of the retirement system.

Sec. 610. Section 79-1551, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1551-~~ (1) ~~There is hereby created the~~ The School Employees Retirement System Reserve Fund is created. Required deposits from the compensation of members and employers shall be accumulated in the fund to provide a cost-of-living benefit adjustment for each person who is retired or each surviving beneficiary who is receiving a retirement annuity from the School Retirement System of the State of Nebraska. The purpose of the cost-of-living benefit adjustment shall be to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

(2) Commencing July 1, 1993, member contributions into the fund shall equal three-tenths of one percent of compensation and employer contributions into the fund shall be one hundred one percent of member contributions to the fund. A member who receives a refund of his or her account after July 1, 1993, shall be entitled to receive a refund of his or her contributions to the fund. No refund shall be made for an amount less than two dollars.

(3) Upon verification by the actuary, when amounts accumulated in the fund are sufficient to provide a three percent cost-of-living benefit adjustment for all qualified persons, the retirement board shall determine the amount of the cost-of-living benefit adjustment as provided by this section for each member and beneficiary. The retirement board shall make transfers to and from the School Employees Retirement System Reserve Fund and any other fund of the School Retirement System of the State of Nebraska administered by the retirement board in order to comply with this section.

(4) It is the intent of the Legislature that a cost-of-living benefit adjustment provided in this section shall be granted automatically in future years whenever funds are sufficient for such a benefit and the increase in the cost of living or wage levels justifies the adjustment as provided by this section. The cost-of-living benefit adjustment shall be the equivalent of three percent of benefits provided pursuant to the School Employees Retirement Act. The cost-of-living benefit adjustment shall be paid to a retired person or surviving beneficiary during his or her life.

(5) For members who retired prior to June 1, 1993, the cost-of-living benefit adjustment shall be calculated based on the amount of benefit the member is receiving on June 1, 1993. For members who retire on or after June 1, 1993, the cost-of-living benefit adjustment shall be calculated based on the amount of benefit the member receives on the date of retirement. Any subsequent cost-of-living benefit adjustment shall be calculated based on three percent of the amount of benefit the member is receiving on June 1, 1993, or three percent of the amount of benefit the member will receive on the date of retirement if he or she retires subsequent to June 1, 1993.

Sec. 611. Section 79-1556, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1556-~~ Any funds of the retirement system available for investment shall be invested by the Nebraska Investment Council pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds or accounts. Charges so incurred shall not be a part of the retirement board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the council, the retirement board, and the Nebraska Retirement Systems Committee. All money received by the State Treasurer and the retirement board for the retirement system shall be invested by the state investment officer within thirty-one days of after receipt.

Sec. 612. Section 79-1567, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1567.~~ Any expenditure made by a school district pursuant to sections ~~79-1522-01, 79-1545, and 79-1549~~ 569, 603, and 608 of this act as changed by Laws 1993, LB 292, and section ~~79-1551~~ 610 of this act shall be considered a general fund expenditure of the district and shall not be exempt from the growth limitations placed on district spending by the Tax Equity and Educational Opportunities Support Act.

#### ARTICLE 9

#### PART (b) - EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

Sec. 613. Section 79-1032, Revised Statutes Supplement, 1995, is amended to read:

~~79-1032.~~ For purposes of sections ~~79-1032 to 79-1060~~ 613 to 651 of this act, unless the context otherwise requires:

(1) Retirement system or system ~~shall mean~~ means the School Employees Retirement System of (corporate name of the school district as described in section ~~79-401~~ 154 of this act) as provided for ~~in~~ by sections ~~79-1032 to 79-1060~~ 613 to 651 of this act;

(2) Board ~~shall mean~~ means the board of education of the school district;

(3) Trustee ~~shall mean~~ means a trustee provided for in section ~~79-1034~~ 615 of this act;

(4) Employee ~~shall mean~~ means the following enumerated persons receiving compensation from the school district: (a) Regular teachers and administrators employed on a written contract basis; and (b) regular employees, not included in subdivision (4)(a) of this section, hired upon a full-time basis, which basis shall contemplate a workweek of not less than thirty hours;

(5) Member ~~shall mean~~ means any employee included in the membership of the retirement system or any former employee who has made contributions to the system and has not received a refund;

(6) Annuitant ~~shall mean~~ means any member receiving an allowance;

(7) Beneficiary ~~shall mean~~ means any person entitled to receive or receiving a benefit by reason of the death of a member;

(8) Membership service ~~shall mean~~ means service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the school district;

(9) Prior service ~~shall mean~~ means service rendered prior to September 1, 1951, for which credit is allowed under section ~~79-1044~~ 634 of this act, service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is allowed under sections ~~79-1043, 79-1045, 79-1049-02, 79-1049-03, and 79-1049-05~~ 625, 626, 629, 630, and 632 of this act;

(10) Creditable service ~~shall mean~~ means the sum of the membership service and the prior service;

(11) Compensation ~~shall mean~~ means salary or wages payable by the school district before reduction for contributions picked up under section 414(h) of the Internal Revenue Code or elective contributions made pursuant to sections 125 or 403(b) of the code, subject to the applicable limitations of section 401(a)(17) of the code;

(12) Military service ~~shall mean~~ means service in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or any auxiliary thereof;

(13) Accumulated contributions ~~shall mean~~ means the sum of amounts contributed by a member of the system together with regular interest credited thereon;

(14) Regular interest ~~shall mean~~ means interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c) at rates to be determined annually by the board, which shall have the sole, absolute, and final discretionary authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during the last preceding fiscal year;

(15) Retirement date ~~shall mean~~ means the date of retirement of a member for service or disability as fixed by the board;

(16) Normal retirement date ~~shall mean~~ means the end of the month during which the member attains age sixty-five;

(17) Early retirement date ~~shall mean~~ means that month and year selected by a member having at least ten years of creditable service which includes a minimum of five years of membership service and who has attained age fifty-five;

(18) Retirement allowance shall mean means the total annual retirement benefit payable to a member for service or disability;

(19) Annuity shall mean means annual payments, for both prior service and membership service, for life as provided in sections 79-1032 to 79-1060 613 to 651 of this act;

(20) Actuarial tables shall mean means:

(a) For determining the actuarial equivalent of any annuities other than joint and survivorship annuities, a unisex mortality table using thirty percent of the male mortality and seventy percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths percent compounded annually; and

(b) For joint and survivorship annuities, a unisex retiree mortality table using sixty-five percent of the male mortality and thirty-five percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths percent compounded annually and a unisex joint annuitant mortality table using thirty-five percent of the male mortality and sixty-five percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths percent compounded annually;

(21) Actuarial equivalent shall mean means the equality in value of the retirement allowance for early retirement or the retirement allowance for an optional form of annuity, or both, with the normal form of the annuity to be paid, as determined by the application of the appropriate actuarial table, except that use of such actuarial tables shall not effect a reduction in benefits accrued prior to September 1, 1985, as determined by the actuarial tables in use prior to such date;

(22) Withdrawal from service shall mean means complete severance of employment of a member as an employee of the school district by resignation, discharge, or dismissal;

(23) Fiscal year shall mean means the period beginning September 1 in any year and ending on August 31 of the next succeeding year;

(24) Primary beneficiary shall mean means the person or persons entitled to receive or receiving a benefit by reason of the death of a member; and

(25) Secondary beneficiary shall mean means the person or persons entitled to receive or receiving a benefit by reason of the death of all primary beneficiaries prior to the death of the member. If no primary beneficiary survives the member, secondary beneficiaries shall be treated in the same manner as primary beneficiaries.

Sec. 614. Section 79-1033, Reissue Revised Statutes of Nebraska, is amended to read:

79-1033- In every Class V school district in the State of Nebraska there is hereby established a retirement system for all regular employees of such school district. Such system shall be for the purpose of providing retirement benefits for all regular employees of the school district as hereinafter provided in sections 613 to 651 of this act. ~~It~~ The system shall be known as School Employees Retirement System of (corporate name of the school district as described in section 79-401 154 of this act). By such name ~~all~~ All of its business shall be transacted, and all of its funds shall be invested, and all of its cash and securities and other property shall be held in trust by such name for the purposes set forth in sections 79-1032 to 79-1060 613 to 651 of this act. Such funds shall be kept separate from all other funds of the school district and shall be used for no other purpose.

Sec. 615. Section 79-1034, Revised Statutes Supplement, 1995, is amended to read:

79-1034- The general administration of the retirement system is hereby vested in the board of education. The board shall appoint, by a majority of all its members, nine trustees to serve as executive officers to administer sections 79-1032 to 79-1060 613 to 651 of this act. Such board of trustees shall consist of (1) the superintendent of schools, as ex officio trustee, (2) three members of the retirement system, two of whom shall be from the certificated staff, and one of whom shall be from the classified staff, (3) three members of the board of education, and (4) two trustees who shall be are business persons qualified in financial affairs, and who are not members of the retirement system. The first trustees will take office as of the effective date of the retirement system, and the terms of office shall begin as of that date. The trustees shall serve without compensation, but they shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall serve until a successor

qualifies, except that trustees who are members of the retirement system or members of the school board of education shall be disqualified as trustees immediately upon ceasing to be a member of the system or of the school board retirement system or of the board of education. Each trustee shall be entitled to one vote on the board of trustees, and five trustees shall constitute a quorum for the transaction of any business. The trustees who are appointed from the board of education and the membership shall be appointed for each fiscal year. The two trustees who are not members of the board of education or of the retirement system shall be appointed for three fiscal years each. The board of trustees and the administrator of the retirement system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code.

Sec. 616. Section 79-1035, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1035.~~ The board of education shall from time to time establish rules and regulations for the administration of the retirement system and for the transaction of its business and shall appoint an administrator of the retirement system. The board may contract for such medical and other services as shall be required to transact the business of the retirement system. Compensation for all persons employed by the board and all other expenses of the board necessary for the proper and efficient operation of the retirement system shall be paid in such amounts as the board determines and approves.

In addition to such duties and other duties arising out of sections ~~79-1032 to 79-1060~~ 613 to 651 of this act not specifically reserved or assigned to others, the board shall maintain a separate account of each member's contribution, the record of which shall be available to the member upon request, compile such data as may be necessary for the required actuarial valuation, consider and pass on all applications for annuities or other benefits and have examinations made when advisable of persons receiving disability benefits, certify the amount of the tax levy required under section ~~79-1052~~ 647 of this act to the county board of equalization, and direct and determine all policies necessary in the administration of sections ~~79-1032 to 79-1060~~ 613 to 651 of this act.

Sec. 617. Section 79-1036, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1036.~~ The trustees shall (1) hold regular meetings annually and such special meetings at such times as may be deemed necessary, and all ~~the~~ all meetings of the trustees shall be open to the public, (2) ~~They shall keep a record of all the proceedings of such meetings,~~ (3) ~~The trustees shall,~~ subject to the approval of the board of education, invest all cash income not required for current payments in securities of the type provided in section ~~79-1051~~ 642 of this act and so reinvest the proceeds from the sale or redemption of investments, (4) ~~They shall supervise the financial affairs of the retirement system and recommend,~~ to the board of education, any changes in the administration of the retirement system essential to the actuarial requirements of the fund, and (5) ~~They shall ascertain each year the estimated amount of money to be raised by taxation to cover payments during the ensuing fiscal year on account of prior service and recommend to the board of education the rate of tax to be levied.~~

Sec. 618. Section 79-1037, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1037.~~ The administrator of the retirement system shall keep the minutes and records of the retirement system, shall be the executive officer in charge of the administration of the detailed affairs of the retirement system, and shall perform such other duties as may be assigned by the board of education or the trustees.

Sec. 619. Section 79-1038, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1038.~~ The board of education shall contract for the services of an actuary, who shall be the technical advisor of the board and the trustees on matters regarding the operation of the system; ~~he shall~~ retirement system. The actuary shall (1) make a general investigation of the operation of the retirement system at least once in every three years, which investigation shall cover mortality, retirement, disability, employment, turnover, interest, and earnable compensation, and (2) ~~he shall~~ he shall recommend tables to be used for all required actuarial calculations. The actuary ~~he may be employed to make an annual valuation of the liabilities of the retirement system on the basis of which the board of education may make an annual determination of the amount of the tax levy authorized by sections 79-1032 to 79-1060, and 613 to 651 of this act.~~ The actuary shall perform such other duties as may be assigned by the board.

Sec. 620. Section 79-1039, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1039-~~ The attorney for the board of education shall be the legal advisor to the trustees.

Sec. 621. Section 79-1040, Revised Statutes Supplement, 1995, is amended to read:

~~79-1040-~~ The treasurer of the county in which the school district is located shall be ex officio treasurer of the retirement system. The treasurer shall act as official custodian of the cash and securities belonging to the retirement system, shall provide adequate safe deposit facilities for the preservation of such securities, and shall hold such cash and securities subject to the order of the board of education.

The treasurer shall receive all items of taxes or cash belonging to the retirement system, shall deposit in banks approved by the board of education all such amounts in a trust account secured by collateral in accordance with the depository law, and shall submit a monthly report to the board of all such transactions. Notwithstanding any limitations elsewhere imposed by statute on the location of the retirement system's depository bank, such limitations shall not apply to the use of a depository bank for the custody of international investments or other investments which require the use of a designated depository institution. The treasurer shall make payments for purposes specified in sections ~~79-1032 to 79-1060~~ 613 to 651 of this act upon warrants issued according to law by the board of education designated Retirement Fund, (corporate name of the school district as described in section ~~79-401~~ 154 of this act), and signed by the president and secretary of the board of education. All banks and custodians which receive and hold securities and investments for the retirement system may hold and evidence such securities by book entry account rather than obtaining and retaining the original certificate, indenture, or governing instrument for such security. The treasurer shall furnish a corporate surety bond payable to the school district and acceptable to the board in such amount as the board shall designate. The bond shall be in addition to his or her bond as treasurer ex officio of the school district, and the cost of the bond shall be paid by the school district.

Sec. 622. Section 79-1050, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1050-~~ An annual audit of the affairs of the retirement system shall be conducted. At the option of the governing board of the retirement system, such audit may be conducted by a certified public accountant or the Auditor of Public Accounts. The costs of such audit shall be paid from funds of the retirement system. A copy of such audit shall be filed with the Auditor of Public Accounts.

Sec. 623. Section 79-1041, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1041-~~ Any person who becomes an employee on or after the date of establishment of the retirement system shall become a member of the retirement system upon employment. Contributions by such employee under sections ~~79-1032 to 79-1060~~ 613 to 651 of this act shall begin with the first payroll period after becoming a member, and creditable service shall then begin to accrue.

Sec. 624. Section 79-1042, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1042-~~ The board shall have available records showing the name, title, compensation, sex, date of birth, and length of service of each employee entitled to membership in the retirement system and such other information regarding such member as may be necessary for actuarial study and valuation.

Sec. 625. Section 79-1043, Revised Statutes Supplement, 1995, is amended to read:

~~79-1043-~~ (1) Any member who is eligible for reemployment on or after December 12, 1994, pursuant to 30 U.S.C. Chapter 43, as amended, or is eligible for reemployment under sections 55-160 to 55-163 may pay to the retirement system after the date of his or her return from active military service, and within the period required by law, not to exceed five years, an amount equal to the sum of all deductions which would have been made from the salary which he or she would have received during the period of military service for which creditable service is desired. If such payment is made, the member shall be entitled to credit for membership service in determining his or her annuity for the period for which contributions have been made and the board shall be responsible for any funding necessary to provide for the benefit which is attributable to this increase in the member's creditable service. The member's payments shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis

pursuant to a binding irrevocable payroll deduction authorization between the member and the school district. Creditable service may be purchased only in one-half-year increments, starting with the most recent year's salary.

(2) Under such rules and regulations as the board may prescribe, any member who was away from his or her position while on a leave of absence from such position authorized by the ~~school board~~ or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for any or all time he or she was on leave of absence. Such time shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on salary at the level received immediately prior to the leave of absence. Such credit shall be received if such member pays into the retirement system (a) an amount equal to the sum of the deductions from his or her salary for the portion of the leave for which creditable service is desired, (b) any contribution which the school district would have been required to make for the portion of the leave for which creditable service is desired had he or she continued to receive salary at the level received immediately prior to the leave of absence, and (c) regular interest on these combined payments from the date such deductions would have been made to the date of repayment. Such amounts shall with such amounts to be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of the termination of his or her leave of absence. Interest on any delayed payment shall be at the rate of regular interest. Creditable service may be purchased only in one-half-year increments, starting with the most recent year's salary, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-half-year increment. Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence, the member must return to employment with the Class V school district within one year after termination of the leave of absence.

Sec. 626. Section 79-1045, Revised Statutes Supplement, 1995, is amended to read:

~~79-1045.~~ In the event that if any employee becomes a member without prior service credit, prior service credit for a period of not to exceed ten years may be acquired by furnishing satisfactory proof that the employee has been employed for such period of time by a school district or by a Nebraska educational service unit and by the payment by the member of the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system during such period, together with regular interest thereon. Such contribution shall with such contribution to be based on the most recent year's salary the employee earned in another school district or Nebraska educational service unit if the salary is verified by the other school district or Nebraska educational service unit or, if not, on his or her current annual salary at the time he or she becomes a member and payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit, and by the payment into the fund by the school district of an equivalent amount. These amounts shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from date of membership. Interest on delayed payments shall be at the rate of regular interest. Creditable service may be purchased only in one-half-year increments, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-half-year increment.

Sec. 627. Section 79-1049, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1049.~~ A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section ~~79-1043, 79-1045, 79-1049-02, 79-1049-03, or 79-1049-05~~ 625, 626, 629, 630, or 632 of this act, and who severs his or her employment may elect to leave his or her contributions in the retirement system, in which event he or she shall receive

a retirement allowance at normal retirement age based on the annuity earned to the date of such severance. Such member may elect to receive a retirement allowance at early retirement age if such member retires at an early retirement date. Such annuity shall be adjusted in accordance with section 79-1044.01 635 of this act. Upon the severance of employment, except on account of retirement, a member shall be entitled to receive refunds as follows: (1) An amount equal to the accumulated contributions to the retirement system by the member; and (2) any contributions made to a previously existing system which were refundable under the terms of that system. Any member receiving a refund of contributions shall thereby forfeit and relinquish all accrued rights in the retirement system including all accumulated creditable service, except that if any member who has withdrawn his or her contributions as provided in this section reenters the service of the district and again becomes a member of the retirement system, he or she may restore any or all money previously received by him or her as a refund, including the regular interest for the period of his or her absence from the district's service, and he or she shall then again receive credit for that portion of service which the restored money represents. Such restoration may be made as the trustees may direct over a period of not to exceed two years from the date of reemployment. Interest on delayed payments shall be at the rate of regular interest. Creditable service may be purchased only in one-half-year increments, starting with the most recent year's salary.

Sec. 628. Section 79-1049.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1049.01-~~ For one year from May 30, 1987, any person who withdrew his or her accumulated contributions pursuant to section 79-1049 627 of this act prior to May 30, 1987, has again become an employee, and has not previously repaid all of his or her accumulated contributions pursuant to ~~section 79-1049~~ such section may elect to repay any unpaid portion of these accumulated contributions to the retirement system for any number of years of creditable service which he or she accumulated prior to withdrawing his or her accumulated contributions. The amount to be repaid shall not exceed the amount of the withdrawal for the years of creditable service for which the repayment is being made plus the regular interest which would have accrued on that amount under the retirement system. Any person who repays such amount shall be restored to the same status for the years of creditable service for which repayment is made as he or she had prior to the withdrawal of the accumulated contributions.

Sec. 629. Section 79-1049.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1049.02-~~ For one year from May 30, 1987, any person who was an employee of another school district prior to May 30, 1987, has joined or rejoined the retirement system, and has not previously paid into the retirement system a total of ten years of service in another school district may elect to pay the retirement system any unpaid portion of such service up to a total of ten years. Such electing employee shall furnish satisfactory proof that he or she has been employed for such period of time by another school district and shall pay to the retirement system the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system plus the regular interest which would have accrued on such amount during such period under the retirement system. Such contribution shall be based on the most recent years' salary the employee earned in another school district if the salary is verified by the other school district or, if not, on his or her annual salary at the time he or she became a member and shall be payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit. Any person who pays such amount shall be given credit for any number of years of service which he or she has elected to pay for, not to exceed ten years of service rendered as an employee in another school district, and shall be given the same status as though he or she had been a member of the retirement system for such number of years, except as otherwise specifically provided in sections ~~79-1032 to 79-1060~~ 613 to 651 of this act.

Sec. 630. Section 79-1049.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1049.03-~~ For one year from May 30, 1987, any person who served in the armed forces as specified in subsection (1) of section 79-1043 625 of this act or who was on a leave of absence as specified in subsection (2) of ~~section 79-1043~~ such section, has again become an employee, and has not previously paid into the system for all of the years of military service or leave of absence permitted by ~~section 79-1043~~ such section may elect to pay into the retirement system for the total number of years of service authorized by ~~section 79-1043~~ such section but not previously paid in. The amount to be

paid in by the member shall be calculated as provided in section 79-1043 such section. Any person who pays such amount shall be given credit for any number of years of service for which he or she has elected to pay, not to exceed the total number of years authorized by section 79-1043 such section, and shall be given the same status as though he or she had been a member of the retirement system for such number of years, except as otherwise specifically provided in sections 79-1032 to 79-1060 613 to 651 of this act.

Sec. 631. Section 79-1049.04, Reissue Revised Statutes of Nebraska, is amended to read:

79-1049.04. (1) The payments provided for by sections 79-1049.01, 79-1049.02, and 79-1049.05 628, 629, and 632 of this act may be made in equal installments over a period of not to exceed two years from the date of the election to make such payments. The payments provided for by section 79-1049.03 630 of this act may be made in equal installments over a period of not to exceed three years from the date of election to make such payments. Any person who elects to make payments on an installment basis shall be credited with prior service only in six-month increments and only after payment has been made to the retirement system to purchase each additional six-month increment.

(2) Interest on delayed payments shall be at the rate of regular interest.

Sec. 632. Section 79-1049.05, Reissue Revised Statutes of Nebraska, is amended to read:

79-1049.05. On or before May 27, 1988, any person who was an employee of an educational service unit in the State of Nebraska prior to April 7, 1988, has joined or rejoined the retirement system, and has not previously paid into the retirement system a total of ten years of service in another school district or educational service unit may elect to pay the retirement system any unpaid portion of such service up to a total of ten years. Such electing employee shall furnish satisfactory proof that he or she has been employed for such period of time by an educational service unit and shall pay to the retirement system the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system plus the regular interest which would have accrued on such amount during such period under the retirement system. Such contribution shall be based on the most recent years' salary the employee earned in the educational service unit if the salary is verified by the educational service unit or, if not, on his or her annual salary at the time he or she became a member and shall be payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit. Any person who pays such amount shall be given credit for any number of years of service for which he or she has elected to pay, for, not to exceed ten years of service rendered as an employee in another school district or educational service unit, and shall be given the same status as though he or she had been a member of the retirement system for such number of years except as otherwise specifically provided in sections 79-1032 to 79-1060 613 to 651 of this act. This section shall not apply to employees retiring prior to April 7, 1988.

Sec. 633. Section 79-1049.06, Revised Statutes Supplement, 1995, is amended to read:

79-1049.06. The retirement system may accept cash rollover contributions from a member who is making payments for additional service credits pursuant to section 79-1043, 79-1045, or 79-1049 625, 626, or 627 of this act if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such sections and:

(1) The contributions represent all or any portion of the member's interest in a plan of a former employer which is qualified under section 401(a) of the Internal Revenue Code and such interest may be transferred to the system as a qualifying rollover contribution under the Internal Revenue Code; or

(2) The contributions represent the interest of a member from an individual retirement account or individual retirement annuity, the entire amount of which is attributable to a qualified total distribution as defined in the Internal Revenue Code from a source described in subdivision (1) of this section and thus qualified as a tax-free rollover amount, and the interest is transferred to the system within sixty days from the date of distribution of the individual retirement account or individual retirement annuity.

Cash transferred to the system as a rollover contribution shall be deposited as a commingled asset of the system and shall not be separately accounted for or invested for the member's benefit. Rollover contributions made by any member shall be treated as qualifying payments under section 79-1043, 79-1045, or 79-1049 625, 626, or 627 of this act and as employee

contributions for all other purposes of this section and sections 79-1032 to 79-1060 ~~613 to 651 of this act~~ except in determining federal and state tax treatment of distributions from the system.

The system, the board, the trustees, and their respective members, officers, and employees shall have no responsibility or liability with respect to the federal and state income tax consequences of any transfer made to the system pursuant to this section, and the trustees may require as a condition to the system's acceptance of any rollover contribution satisfactory evidence that the proposed transfer is a qualifying rollover contribution under the Internal Revenue Code and reasonable releases or indemnifications from the member against any and all liabilities which may in any way be connected with such transfer.

Effective January 1, 1993, any member who is to receive an eligible rollover distribution, as defined in the Internal Revenue Code, from the system may, in accordance with such rules, regulations, and limitations as may be established by the ~~board of trustees~~, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code. Any such election shall be made in the form and within the time periods established by the ~~board of trustees~~.

All distributions from the system shall be subject to all withholdings required by federal or state tax laws.

Sec. 634. Section 79-1044, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1044.~~ After the date of establishment of the retirement system, each member shall be credited annually with a retirement annuity of an amount equal to one and one-half percent of the salary or wage earned by him or her during the then current fiscal year not in excess of five thousand dollars, except that (1) for each member who retires on or after August 31, 1969, such credit shall be an amount equal to one and sixty-five hundredths percent of such salary or wage not in excess of five thousand dollars and (2) for each member who chose the new system in 1951 and who retires on or after August 31, 1976, for service from September 1, 1951, to August 31, 1955, such credit shall be two and four-tenths percent of such salary or wage not in excess of five thousand dollars, for service from September 1, 1955, to August 31, 1963, one and forty-four hundredths percent of such salary or wage not in excess of six thousand dollars, for service from September 1, 1963, to August 31, 1969, one and forty-four hundredths percent of such salary or wage up to the social security wage base, plus two and four-tenths percent of salary or wage in excess thereof, and for service after September 1, 1969, one and forty-four hundredths percent of the first seventy-eight hundred dollars of such salary or wage and two and four-tenths percent of the excess of such salary or wage over seventy-eight hundred dollars. With respect to service rendered prior to the date of establishment of the retirement system, each employee in service or on leave of absence on such date shall be entitled to an annuity on account of prior service. Such annuity shall be such percentage of the maximum annuity to which such member might have been entitled under the terms of a retirement plan previously in effect as the number of years of service under such plan bears to the total number of years for which credit for service might have been granted under such plan, except that no credit shall be given in excess of the maximum annuity provided under such preexisting plan. The number of years of prior service for which credit shall be given under this section shall be the number of years of service with which the employee is credited under such preexisting plan on May 21, 1951. The sum of these two annuities shall constitute the retirement allowance to which the member shall be entitled to be paid beginning on his or her retirement date. Such annuity shall be paid in twelve equal monthly installments unless the amount thereof is less than ten dollars per month in which event payments shall be made quarterly or semiannually.

Sec. 635. Section 79-1044.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-1044.01.~~ In lieu of the retirement annuity provided by section 79-1044 or 79-1056 634 or 648 of this act, any member who becomes eligible to receive a retirement annuity after February 20, 1982, under sections 79-1032 to 79-1060 ~~613 to 651 of this act~~ shall receive a formula retirement annuity based on final average compensation, except that if the monthly formula retirement annuity based on final average compensation is less than the monthly retirement annuity specified in section 79-1044 or 79-1056 634 or 648 of this act, accrued to the date of retirement or August 31, 1983, whichever first occurs, the member shall receive the monthly retirement annuity specified in section 79-1044 or 79-1056 634 or 648 of this act accrued to the date of retirement or August 31, 1983, whichever first occurs.

The monthly formula retirement annuity based on final average compensation shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the retirement annuity provided by section 79-1044 or 79-1056 634 or 648 of this act by one and one-half percent of his or her final average compensation. For retirements after June 15, 1989, and before April 18, 1992, the applicable percentage shall be one and sixty-five hundredths percent of his or her final average compensation. For retirements on or after April 18, 1992, and before June 7, 1995, the applicable percentage shall be one and seventy-hundredths percent of his or her final average compensation. For retirements on or after June 7, 1995, the applicable percentage shall be one and eighty-hundredths percent of his or her final average compensation.

Final average compensation shall be determined by dividing the member's total compensation for the three fiscal years in which such compensation was the highest by thirty-six.

For retirements before June 7, 1995, if the annuity begins prior to the sixty-second birthday of the member and the member has not completed thirty-five or more years of creditable service, the annuity at the date it begins shall be the actuarial equivalent of the annuity deferred to the sixty-second birthday of the member. If the annuity begins prior to the sixty-second birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall not be reduced. For retirements on or after June 7, 1995, any retirement annuity which begins prior to the sixty-second birthday of the member shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-second birthday. If the annuity begins at a time when:

- (1) The sum of the member's attained age and creditable service is eighty-five or more, the annuity shall not be reduced;
- (2) The sum of the member's attained age and creditable service totals eighty-four, the annuity shall not be reduced by an amount greater than three percent of the unreduced annuity;
- (3) The sum of the member's attained age and creditable service totals eighty-three, the annuity shall not be reduced by an amount greater than six percent of the unreduced annuity; and
- (4) The sum of the member's attained age and creditable service totals eighty-two, the annuity shall not be reduced by an amount greater than nine percent of the unreduced annuity.

For purposes of this section, a member's creditable service and attained age shall be measured in one-half-year increments.

The normal form of the formula retirement annuity based on final average compensation shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until a total of sixty monthly payments have been made. A member may elect to receive, in lieu of the normal form of annuity, an actuarially equivalent annuity in any optional form provided by section 79-1046 636 of this act.

Any member receiving a formula retirement annuity based on final average compensation shall also receive the service annuity to be paid by the State of Nebraska as provided in sections 79-1522 to 79-1523 568 to 572 and 586 of this act.

Sec. 636. Section 79-1046, Revised Statutes Supplement, 1995, is amended to read:

~~79-1046.~~ Any time prior to receiving the first annuity payment, the member may elect to receive in lieu of such annuity, but payable in the same manner, an actuarially equivalent annuity in one of the following forms:

- (1) A joint and survivorship annuity which shall continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose attained age at the time of such election is fifty-five years or more;
- (2) A joint and survivorship annuity which shall continue after the death of the member so that seventy-five percent of the amount of the member's monthly benefit under this option shall be paid monthly to the (a) member's spouse until his or her death or (b) other designated beneficiary whose age at the time of such election is fifty-five years or more until his or her death;
- (3) An annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before one hundred twenty monthly payments have been made the monthly payments will be continued as provided in this section until a total of one hundred twenty monthly payments have been made; or
- (4) A joint and survivorship annuity which will continue after the

death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose attained age at the time of such election is fifty-five years or more but which annuity shall, upon the spouse's or designated beneficiary's death before the death of the member, be increased after such death for the remaining life of the member so that the monthly benefit equals the monthly benefit which would have been payable to the member had the member selected the normal form of the formula retirement annuity specified in section 79-1044.01 635 of this act.

Each of these actuarially equivalent annuities, except for the form provided in subdivision (3) of this section, shall continue for a minimum of sixty months.

The amount of each monthly payment shall be the amount specified in the form elected by the member.

Whether the member elects the normal form or one of the optional forms of the formula retirement annuity, if the member and his or her designated beneficiary die before the specified monthly payments have been made, the remaining number of the specified payments shall be paid to the individual or individuals designated in writing, on forms prescribed by the system, by the last surviving of the member or the member's designated beneficiary and, if no such designation is made, to the estate of the last surviving of the member or the member's designated beneficiary. At the election of a beneficiary, a single sum payment which is the actuarial equivalent of the remaining monthly payments to be paid to such beneficiary may be paid in lieu of the annuity benefit otherwise to be provided under the normal form or the optional form described in subdivision (3) of this section.

Sec. 637. Section 79-1046.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-1046.01~~ (1) Notwithstanding any other provision of sections 79-1032 ~~to 79-1060 613 to 651 of this act,~~ no member of the retirement system shall receive in any calendar year an annuity benefit derived from contributions of the board which if received in the form of a straight life annuity with no ancillary benefits would exceed the lesser of: ~~(1)~~ (a) A dollar limitation of ninety thousand dollars, adjusted as of January 1 of each calendar year to the dollar limitation as determined for such year by the Commissioner of Internal Revenue pursuant to section 415(d) of the Internal Revenue Code; or ~~(2)~~ (b) a compensation limit of one hundred percent of the average compensation paid to the member during the three consecutive calendar years of employment with the board, or actual number of consecutive calendar years of employment if employed less than three consecutive years, which give the highest average. The limitations provided in this section shall not apply to any board-derived annuity benefit which is less than ten thousand dollars.

(2) The limitations provided in this section shall be adjusted as follows:

(a) If the annuity begins prior to the sixty-second birthday of the member, the dollar limitation shall be equal to an annual annuity benefit which is equal to the actuarial equivalent of an annuity benefit commencing on the sixty-second birthday of the member, but not less than seventy-five thousand dollars;

(b) If the annuity begins after the sixty-fifth birthday of the member, the dollar limitation shall be equal to an annual annuity benefit which is equal to the actuarial equivalent of an annuity benefit commencing on the sixty-fifth birthday of the member; and

(c) If the annuity begins prior to the member having ten years of creditable service, the dollar limitation as well as the one hundred percent of average compensation limitation and the exception for an annuity benefit which is less than ten thousand dollars shall be reduced by a fraction, the numerator of which is the total full fractional parts of years of creditable service and the denominator of which is ten.

(3) For purposes of the limitations provided in this section, the actuarial equivalent shall be determined from the actuarial tables used for the retirement allowance for early retirement, except that in the case of the adjustment for an annuity which begins after the sixty-fifth birthday of a member, the interest rate to be used in determining the actuarial equivalency shall be five percent compounded annually. The value of the joint and survivorship feature of an annuity shall not be taken into account in applying the limitations provided in this section.

(4) This section is intended to meet the requirements of section 415 of the Internal Revenue Code and shall be construed in accordance with such section and shall, by this reference, incorporate any subsequent changes made to such section as the same may apply to the retirement system.

Sec. 638. Section 79-1056.06, Revised Statutes Supplement, 1995, is amended to read:

~~79-1056-06-~~ (1) Any annuity paid on or after September 1, 1983, to a member who retired prior to February 21, 1982, pursuant to sections ~~79-1032 to 79-1060 613 to 651 of this act.~~ or to such member's beneficiary, or to a person who retired under the provisions of the retirement system established in Chapter 79, ~~article 10,~~ by statute for employees of Class V school districts in effect prior to September 1, 1951, or to such person's beneficiary, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1983, except that such increase shall not exceed the sum of one dollar and fifty cents per month for each year of creditable service and one dollar per month for each completed year of retirement as measured from the effective date of retirement to June 30, 1983. No separate adjustment in such annuity shall be made as a result of the changes made in section ~~79-1056 648 of this act~~ pursuant to Laws 1983, LB 488. If a joint and survivor annuity was elected, the increase shall be actuarially adjusted so that the joint and survivor annuity remains the actuarial equivalent of the life annuity otherwise payable.

(2) In addition to the cost-of-living adjustment provided in subsection (1) of this section, any annuity paid on or after September 1, 1986, pursuant to sections ~~79-1032 to 79-1060 613 to 651 of this act~~ or pursuant to the provisions of the retirement system established in Chapter 79, ~~article 10,~~ by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1985, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1986, except that such increase shall not exceed (a) three and one-half percent for annuities first paid on or after September 1, 1984, (b) seven percent for annuities first paid on or after September 1, 1983, but before September 1, 1984, or (c) ten and one-half percent for all other annuities.

(3) In addition to the cost-of-living adjustment provided in subsections (1) and (2) of this section, any annuity paid on or after September 1, 1989, pursuant to sections ~~79-1032 to 79-1060 613 to 651 of this act~~ or pursuant to the provisions of the retirement system established in Chapter 79, ~~article 10,~~ by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1988, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1989, except that such increase shall not exceed (a) three percent for annuities first paid on or after September 1, 1987, (b) six percent for annuities first paid on or after September 1, 1986, but before September 1, 1987, or (c) nine percent for all other annuities.

(4) In addition to the cost-of-living adjustment provided in subsections (1), (2), and (3) of this section, any annuity paid on or after September 1, 1992, pursuant to sections ~~79-1032 to 79-1060 613 to 651 of this act~~ or pursuant to the provisions of the retirement system established in Chapter 79, ~~article 10,~~ by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1991, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1990, (b) six percent for annuities first paid after October 1, 1989, but on or before October 1, 1990, or (c) nine percent for all other annuities.

(5) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), and (4) of this section, any annuity paid on or after September 1, 1995, pursuant to sections ~~79-1032 to 79-1060 613 to 651 of this act~~ or pursuant to the provisions of the retirement system established in Chapter 79, ~~article 10,~~ by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be adjusted by the increase in the cost-of-living or wage levels between the effective date of retirement and June 30, 1995, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1993, (b) six percent for annuities first paid after October 1, 1992, but on or before October 1, 1993, or (c) nine percent for all other annuities.

(6) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), (4), and (5) of this section, any annuity paid pursuant to sections ~~79-1032 to 79-1060 613 to 651 of this act~~ or pursuant to the provisions of the retirement system established in Chapter 79, ~~article 10,~~ by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be subject to adjustment to equal the greater of (a) the annuity payable to the member or beneficiary as adjusted, if applicable,

under the provisions of subsection (1), (2), (3), (4), or (5) of this section or (b) ninety percent of the annuity which results when the original annuity that was paid to the member or beneficiary (before any cost-of-living adjustments under this section), is adjusted by the increase in the cost-of-living or wage levels between the commencement date of the annuity and June 30, 1995.

Sec. 639. Section 79-1060, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1060-~~ All annuities and other benefits payable under sections ~~79-1032 to 79-1060 613 to 651 of this act~~ and all accumulated credits of members of the retirement system shall not be assignable or subject to execution, garnishment, or attachment except to the extent that such annuity or benefit is subject to a qualified domestic relations order as such term is defined in and which meets the requirements of section 414(p) of the Internal Revenue Code. Payments under such a qualified domestic relations order shall be made only after the administrator of the retirement system receives written notice of such order and such additional information and documentation as the administrator may require.

Sec. 640. Section 79-1048, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1048-~~ (1) Any member with five or more years of creditable service, excluding years of prior service acquired pursuant to section ~~79-1043, 79-1045, 79-1049-02, 79-1049-03, or 79-1049-05 625, 626, 629, 630, or 632 of this act~~, who becomes totally disabled for further performance of duty may be retired by the board. In the case of such retirement, the amount of annuity payable to the member shall be the annuity earned to date of disability retirement without reduction due to any early commencement of benefits, except that payments for disability shall be reduced by the amount of any ~~periodic~~ periodic payments to such employee as workers' compensation benefits. The board shall consider a member to be totally disabled when it has received an application by the member and a statement by at least two licensed and practicing physicians designated by the board certifying that the member is totally and presumably permanently disabled and unable to perform his or her duties as a consequence thereof.

(2) The disability benefit referred to in subsection (1) of this section shall begin to accrue from the first day of the month following the date of the first of the two examinations by which the member is determined to be totally disabled, shall be payable during the time the member does not receive any wages or compensation for services, and shall continue until the time either of the following events first occurs: (a) When disability ceases; or (b) when the normal retirement date is attained. The board may require ~~periodic~~ periodic proof of disability, but not more frequently than semiannually. Any member whose disability benefits cease because of such member having reached the normal retirement date shall upon such date be entitled to the retirement allowance without reduction for amounts paid on account of disability but without credit for service during the period of disability.

Sec. 641. Section 79-1047, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1047-~~ (1) Upon the death of a member who has not yet retired and who has twenty years or more of creditable service, the member's primary beneficiary shall receive a survivorship annuity in accordance with subdivision (1) of section ~~79-1046 636 of this act~~ if the primary beneficiary is (a) the member's spouse or (b) one other designated person whose attained age at the time of the member's death is fifty-five years or more. The amount of such actuarially equivalent annuity shall be calculated using the attained ages of the member and the beneficiary and be based on the annuity earned to the date of the member's death without reduction due to any early commencement of benefits. Within sixty days from the date of the member's death, if the member has not previously filed with the administrator of the retirement system a form requiring that only the survivorship annuity be paid, the beneficiary may request to receive in a lump sum an amount equal to the member's accumulated contributions. If prior to the member's death, the member files with the administrator of the retirement system a form requiring that the beneficiary receive a lump-sum settlement in lieu of the survivorship annuity, the beneficiary shall receive, in lieu of the survivorship annuity, a lump-sum settlement in an amount equal to the member's accumulated contributions notwithstanding any other provision of this section.

(2) Upon the death of a member who has not yet retired and who has less than twenty years of creditable service or upon the death of a member who has not yet retired and who has twenty years or more of creditable service but whose beneficiary does not meet the criteria in subsection (1) of this

section, the member's beneficiary or, if no beneficiary has been named, the member's estate shall receive in a lump sum an amount equal to the member's accumulated contributions.

Sec. 642. Section 79-1051, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1051.~~ The funds of the retirement system which are not required for current operations shall be invested and reinvested by the trustees subject to the approval of the board of education as provided in sections ~~79-1051.01 to 79-1051.07~~ 643 to 646 of this act. Except as otherwise provided in sections ~~79-1032 to 79-1060~~ 613 to 651 of this act, no trustee and no member of the board shall have any direct interest in the income, gains, or profits of any investment made by the trustees, nor shall any such person receive any pay or emolument for services in connection with any such investment. No trustee or member of the board shall become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the retirement system. Any person who violates any of these restrictions shall be guilty of a Class II misdemeanor.

Sec. 643. Section 79-1051.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1051.01.~~ The board of trustees, with approval of the board of education, shall invest and reinvest funds of the retirement system. A professional investment manager may be employed by the board of trustees subject to approval of the board of education. ~~He or she~~ The professional investment manager shall be responsible for the purchase, sale, exchange, investment, or reinvestment of such funds subject to guidelines determined by the board of trustees. The trustees shall each month submit a report to the board of education with respect to the investment of funds. The board of education shall approve or disapprove the investments in the report, and in the event of disapproval of any investment, the board shall direct the sale of all or part of such investment or establish future policy with respect to that type of investment.

Sec. 644. Section 79-1051.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1051.02.~~ In the event of default in the payment of principal of, or interest on, the investments made, the ~~board of trustees~~ is are authorized to institute the proper proceedings to collect such matured principal or interest, and may, with approval of the board of education, accept for exchange purposes, refunding bonds or other evidences of indebtedness with interest rates to be agreed upon with the obligor. The ~~board of trustees~~, with the approval of the board of education, is are further authorized to make such compromises, adjustments, or disposition of the past-due interest or principal as are in default, or to make such compromises and adjustments as to future payments of interest or principal as deemed advisable for the purpose of protecting the investment.

Sec. 645. Section 79-1051.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1051.05.~~ Investments may also be made in first mortgages on improved real property which are insured by the Federal Housing Administration under the National Housing Act, are guaranteed by the United States Department of Veterans Affairs under the federal Veterans' Benefits Act of 1958 and any amendments thereto, or are otherwise insured or guaranteed by the United States of America or any agency or instrumentality thereof so as to give the investor protection essentially the same as that provided by such National Housing Act or federal Veterans' Benefits Act of 1958 and any amendments thereto or in notes, bonds, or debentures fully collateralized by such protected mortgages.

Sec. 646. Section 79-1051.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1051.07.~~ The trustees shall invest the funds of the retirement system in investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another. Such investments shall not be made for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. The trustees shall not buy on margin or buy call options or put options but may write call options and put options. The trustees may lend any security if cash, United States Government obligations, or United States Government agency obligations with a market value equal to or exceeding the market value of the security lent are received as collateral. If shares of stock are purchased under this section, all proxies may be voted by the trustees.

Sec. 647. Section 79-1052, Reissue Revised Statutes of Nebraska, is amended to read:

79-1052- The trustees shall annually estimate the total amount of annuities and refunds to be paid to retired members during the ensuing fiscal year on account of prior service. ~~They~~ ~~The trustees~~ shall timely submit to the board of education the estimated amount required to cover such liabilities taking into account any accumulated excesses or deficiencies on account of variations between estimated and actual payments for past service credits. Upon the recommendation of the trustees, the board of education shall certify to the county clerk, before the county board of equalization makes its levy in each year, the rate of tax upon the taxable value of all the taxable property in such district which it deems necessary to be levied to provide for such prior service annuities less the amount of such credits and refunds on account of prior service. ~~It shall be the duty of the~~ ~~The~~ county board of equalization ~~to~~ shall make the levy demanded by the board of education in the same manner as other taxes are levied and collected. Such special levy shall not in any one year exceed seven cents on each one hundred dollars upon the taxable value of all the taxable property in such district. The proceeds of such special tax levy shall be in addition to the aggregate school tax certified by the board of education for all other school purposes.

Sec. 648. Section 79-1056, Revised Statutes Supplement, 1995, is amended to read:

79-1056- (1) If, at any future time, a majority of the eligible members of the retirement system votes to be included under an agreement providing old age and survivors insurance under the Social Security Act of the United States, the contributions to be made by the member and the school district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three percent but not less than three percent of the member's salary per annum, and the credits for membership service under this system, as provided in section ~~79-1044~~ ~~634~~ of this act, shall thereafter be reduced from one and one-half percent to nine-tenths of one percent and not less than nine-tenths of one percent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths percent to one percent and not less than one percent of salary or wage earned by the member during each fiscal year and from two percent to one and two-tenths percent of salary or wage earned by the member during each fiscal year, and from two and four-tenths percent to one and forty-four hundredths percent of salary or wage earned by the member during each fiscal year, except that after September 1, 1963, and prior to September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of salary covered by old age and survivors insurance, and five percent above that amount. Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. The contributions by the school district shall be such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees. The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under sections ~~79-1032~~ ~~to~~ ~~79-1060~~ ~~613~~ ~~to~~ ~~651~~ of this act. After September 1, 1963, and prior to September 1, 1969, all employees shall

be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-1041 623 of this act as such section existed immediately prior to February 20, 1982, not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement. Members of this system having the service qualifications of members of the School Retirement System of the State of Nebraska, as provided by section 79-1515 561 of this act, shall receive the state service annuity provided by sections 79-1522 to 79-1523 568 to 572 and 586 of this act.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-1043 and 79-1045 625 and 626 of this act which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of sections 79-1032 to 79-1060 613 to 651 of this act in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 649. Section 79-1056.05, Reissue Revised Statutes of Nebraska, is amended to read:

79-1056-05- In the event that an agreement for social security under the provisions of section 218(d)(3) of the federal Social Security Act is made applicable to services performed by employees in positions covered by the school employees retirement system and to services performed by employees who have elected under the provisions of section 79-1041 623 of this act as such section existed immediately prior to February 20, 1982, to remain under a preexisting system, such agreement shall also be made applicable to services performed by individuals as employees of the school district in positions not so covered, but which are otherwise eligible to the benefits of old age and survivors insurance under the provisions of section 218 of the federal Social Security Act as amended, and such employees shall be included in the coverage group, specified in such agreement.

Sec. 650. Section 79-1058, Reissue Revised Statutes of Nebraska, is amended to read:

79-1058- All allowances, annuities, or other benefits granted under the provisions of sections 79-1032 to 79-1060 613 to 651 of this act, and all

expenses incurred in connection with the administration of sections 79-1032 to 79-1060 such sections, except clerical work incurred in connection with maintenance of records and payment of benefits, shall be paid from the retirement fund hereby established. The clerical work above Such clerical work shall be performed by employees of the school district and paid for out of the general fund.

Sec. 651. Section 79-1060.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1060-01.~~ Sections ~~79-1049-01 to 79-1049-04~~ 628 to 631 of this act and the changes made to sections ~~79-1032, 79-1041, 79-1044, 79-1045, 79-1048, 79-1049, and 79-1057~~ 613, 623, 626, 627, 634, and 640 and to section ~~79-1057~~ as such section existed immediately before May 30, 1987, made by Laws 1987, LB 298, shall not apply to employees retiring prior to May 30, 1987.

ARTICLE 10 - SCHOOL TAXATION, FINANCE, AND FACILITY  
PART (a) - TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

Sec. 652. Section 79-3801, Revised Statutes Supplement, 1995, is amended to read:

~~79-3801.~~ Sections ~~79-3801 to 79-3824~~ 652 to 679 of this act shall be known and may be cited as the Tax Equity and Educational Opportunities Support Act.

Sec. 653. Section 79-3802, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3802.~~ (1) The Legislature hereby finds and declares that:  
(a) Nebraska currently finances over seventy percent of the costs of operating its public school system from the property tax and other local sources while nationally only forty-three percent of the costs are supported by property taxes and other local sources;

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

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

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

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

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

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

(a) Provide state support from all sources of state funding for forty-five percent of the aggregate general fund operating expenditures of school districts;

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

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

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

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

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

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

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

(3) The Legislature further finds and declares that all funds to be distributed pursuant to section ~~79-3813~~ 668 of this act shall be used specifically for the purpose of reducing property taxes in the district to which they are distributed.

Sec. 654. Section 79-3803, Revised Statutes Supplement, 1995, is amended to read:

~~79-3803.~~ For purposes of the Tax Equity and Educational

## Opportunities Support Act:

- (1) Adjusted valuation ~~shall mean means~~ the assessed valuation of taxable property of each district in the state adjusted pursuant to the adjustment factors described in section 79-3809 ~~662 of this act~~. For the calculation of state aid to be paid in school year 1994-95 and each school year thereafter, adjusted valuation ~~shall mean means~~ the adjusted valuation for the property tax year ending during the school year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-3808 ~~661 of this act~~, adjusted valuation ~~shall does~~ not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;
- (2) Allocated income tax funds ~~shall mean means~~ the amount of assistance paid to a district pursuant to section 79-3804 ~~655 of this act~~;
- (3) Average daily membership ~~shall mean means~~ the average daily membership for grades kindergarten through twelve as provided in each district's annual financial report and annual statistical summary and, for the calculation of state aid to be paid in school year 1993-94 and each school year thereafter, ~~shall include includes~~ the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;
- (4) Average daily membership tiers ~~shall mean means~~ groupings of districts by the number of students comprising a district's average daily membership in a specified grade range;
- (5) Base fiscal year ~~shall mean means~~ the first fiscal year in which all data sources reflect the reorganized district as a single district for the calculation of state aid;
- (6) Board ~~shall mean means~~ the school board or board of education of each school district;
- (7) Categorical federal funds ~~shall mean means~~ federal funds limited to a specific purpose by federal law, including, but not limited to, Chapter 1 funds, Chapter 2 funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, and Head Start funds;
- (8) Consolidate ~~shall mean means~~ to voluntarily reduce the number of school districts providing education to a grade group;
- (9) Current school year ~~shall mean means~~ the current school fiscal year;
- (10) Department ~~shall mean means~~ the State Department of Education;
- (11) District ~~shall mean means~~ any Class I, II, III, IV, V, or VI district and, for purposes of sections 79-3801 to 79-3813 ~~652 to 668 of this act~~, the nonresident high school tuition fund of each county;
- (12) Ensuing school year ~~shall mean means~~ the school year following the current school year;
- (13) Equalization aid ~~shall mean means~~ the amount of assistance paid to a district pursuant to sections 79-3806 to 79-3813 ~~657 to 668 of this act~~;
- (14) Fall membership ~~shall mean means~~ the total membership in grades kindergarten through twelve as reported on the fall school district membership report pursuant to section 79-451 ~~281 of this act~~;
- (15) Fiscal year ~~shall mean means~~ the state fiscal year which is the period from July 1 to the following June 30;
- (16) Formula students ~~shall mean means~~ (a) for purposes of state aid paid in school year 1993-94, the sum of average daily membership and tuitioned resident students from the most recently available complete data year and (b) for purposes of calculation of state aid for school year 1994-95 and each school year thereafter (i) for state aid certified pursuant to section 79-3813 ~~668 of this act~~, the sum of fall membership and tuitioned resident students from the school year immediately preceding the school year in which the aid is to be paid and (ii) for final calculation of state aid pursuant to section 79-3809 ~~711 of this act~~, the sum of average daily membership and tuitioned resident students from the school year immediately preceding the school year in which the aid was paid;
- (17) Full-day kindergarten ~~shall mean means~~ kindergarten offered by a district for at least one thousand thirty-two instructional hours;
- (18) General fund budget of expenditures ~~shall mean means~~ the total budgeted expenditures for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-3814 ~~669 of this act~~, the general fund budget of expenditures ~~shall does~~ not include any special grant funds, exclusive of local matching funds, received by a district subject to the approval of the department;
- (19) General fund expenditures ~~shall mean means~~ all expenditures from the general fund;

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

(21) Income tax liability shall mean means the amount of the reported income tax liability for resident individuals pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

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

(23) Most recently available complete data year shall mean means the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual statistical summary, Nebraska income tax liability by school district, and adjusted valuation data are available;

(24) Reorganized district shall mean means any district involved in a consolidation and currently educating students following consolidation;

(25) State aid shall mean means the amount of assistance paid to a district pursuant to sections 79-3804 and 79-3806 to 79-3813 655 and 657 to 668 of this act;

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

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

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

Sec. 655. Section 79-3804, Revised Statutes Supplement, 1995, is amended to read:

79-3804. (1) Beginning in fiscal year 1990-91, twenty percent of the projected state income tax receipts shall be dedicated to the use and support of the public school system to provide support for the distribution of state aid to districts as determined in subsections (2) through (4) of this section and sections 79-3806 to 79-3813 657 to 668 of this act.

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

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

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

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

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

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

(4) The remainder of the amount dedicated pursuant to subsection (1) of this section, which includes income tax receipts from all other entities and individual income tax liability which cannot be reasonably identified as payments from residents of specific districts, shall be determined by the Tax Commissioner for the second preceding calendar year. The Legislature shall annually appropriate an amount equal to the total income tax liability allocable to districts based on the certification of the Tax Commissioner provided pursuant to subsection (2) of this section. Based on income tax projections provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Analyst, and the Department of Revenue, the Legislature shall annually appropriate an amount approximating the remainder of such dedicated income tax receipts for the ensuing school year. The State Treasurer shall transfer such appropriated amounts to the School District Income Tax Fund for distribution pursuant to this section and to the Tax Equity and Educational Opportunities Fund for distribution to districts pursuant to the distribution prescribed in sections 79-3806 to 79-3813 657 to 668 of this act.

Sec. 656. Section 79-3805, Reissue Revised Statutes of Nebraska, is amended to read:

79-3805- (1) Using data from the annual financial reports and the annual statistical summary reports for the most recently available complete data year, the department shall calculate the tiered cost per student for grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve for each district as described in subsections (2) through (8) of this section.

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

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

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

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

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

Tier	Tier midpoint	Average daily membership range
1	25.00	.01 - 50.00
2	62.50	50.01 - 75.00

3	87.50	75.01 -	100.00
4	125.00	100.01 -	150.00
5	200.00	150.01 -	250.00
6	375.00	250.01 -	500.00
7	750.00	500.01 -	1,000.00
8	5,500.00	1,000.01 -	10,000.00
9	Median average daily membership of tier	10,000.01 and over	

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

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

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

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

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

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

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

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

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

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

(8) The tiered cost per student for grades seven and eight shall be calculated as follows: For Class II, Class III, Class IV, and Class V districts, the tiered cost per student shall be the calculated mean of the district's tiered cost per student for grades one through six, including full-day kindergarten, and for grades nine through twelve; for Class I districts, the tiered cost per student shall be the district's tiered cost per student for grades one through six, including full-day kindergarten, multiplied by one and two-tenths; and for Class VI districts providing instruction in grades seven and eight as authorized by section 79-1109 160 of this act, the tiered cost per student shall be the district's tiered cost per student for grades nine through twelve multiplied by one and two-tenths and the result divided by one and four-tenths.

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

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

reside on Indian land to the total average daily attendance of the district, as reported by the United States Department of Education in calculating the district's payment pursuant to Public Law 81-874, times twenty-five percent.

Sec. 657. Section 79-3806, Revised Statutes Supplement, 1995, is amended to read:

~~79-3806-~~ (1) Except as provided in section 79-3806-01 658 of this act for reorganized districts which become reorganized districts on or before June 30, 2005, and except as provided in subsections (2) through (7) of this section, each district shall receive equalization aid in the amount that the total formula need of each district, as determined pursuant to subsections (5) and (6) of this section and sections ~~79-3805 and 79-3807~~ 656 and 660 of this act, exceeds its total formula resources as determined pursuant to subsections (5) and (6) of this section and sections ~~79-3808 to 79-3811~~ 661 to 664 of this act.

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

(3) No district shall receive equalization aid in an amount such that total state aid received would result in such district having a general fund tax levy of less than sixty percent of the local effort rate as computed pursuant to section 79-3808 661 of this act. The calculation shall be based on valuation, state aid, and levy data from the current school year and, for the calculation of state aid in school year 1992-93 and each school year thereafter, shall also take into consideration the amounts of nonresident high school tuition certified by the department pursuant to section 79-4,102 as such section existed immediately prior to July 1, 1993, for the current school year and for the school year in which such state aid is to be paid.

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

(5) For school districts or portions thereof in Class VI school systems as defined in section 79-101-01 249 of this act, equalization aid to be paid in school year 1995-96 and each school year thereafter shall be computed as follows:

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

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

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

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

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

(6) For school districts in affiliated school systems as defined in section 79-101-01 249 of this act, equalization aid to be paid in school year 1992-93 and each school year thereafter shall be computed as follows:

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

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

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

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

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

(7) Beginning with school year 1994-95, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 37 of this act were actually enrolled in the current data year shall receive additional state aid for each such student in an amount equal to the statewide average tiered cost per student or the option school district's tiered cost per student, whichever is less.

(8) For school years 1992-93 and 1993-94, a district which does not generate equalization aid pursuant to subsection (1) of this section and in which option students as defined in section 79-3402 37 of this act were actually enrolled in the most recently available complete data year shall receive additional state aid computed by first multiplying the number of such option students, by grade group, by the district's tiered cost per student for each grade group and then summing the results for all grade groups in the district. The district shall receive additional state aid equal to the amount by which this calculation exceeds the district's actual receipts pursuant to section 79-3415 49 of this act in the most recently available complete data year.

Sec. 658. Section 79-3806.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-3806.01.~~ When two or more districts consolidate into one or more reorganized districts:

(1) In the base fiscal year, the reorganized district shall receive as state aid one hundred percent of the state aid or portion thereof calculated for the individual districts involved in the reorganization in the fiscal year prior to the base fiscal year, or the total amount the reorganized district would receive under section 79-3806 657 of this act, whichever is greater;

(2) In the first fiscal year after the base fiscal year, the reorganized district shall receive as state aid sixty-six percent of the state aid or portion thereof calculated for the individual districts in the fiscal year prior to the base fiscal year, or the total amount the reorganized district would receive under section 79-3806 657 of this act, whichever is greater;

(3) In the second fiscal year after the base fiscal year, the reorganized district shall receive as state aid thirty-three percent of the state aid or portion thereof calculated for the individual districts in the fiscal year prior to the base fiscal year, or the total amount the reorganized district would receive under section 79-3806 657 of this act, whichever is greater; and

(4) In the third fiscal year after the base fiscal year and in each fiscal year thereafter, the reorganized district shall receive the amount of state aid to which it is entitled under section 79-3806 657 of this act.

If the total amount of payments under this section to school districts for a school year exceeds the total amount appropriated under subsection (2) of section 79-3806 657 of this act for fiscal year 1994-95, the incentive payment shall be reduced proportionately so that the total amount of aid under this section does not exceed the amount appropriated under subsection (2) of section 79-3806 657 of this act for fiscal year 1994-95.

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

Sec. 659. Section 79-3806.02, Revised Statutes Supplement, 1995, is amended to read:

~~79-3806.02.~~ Section 79-3806.01 shall 658 of this act does not apply to any reorganized district which becomes a reorganized district after June 30, 2005.

Sec. 660. Section 79-3807, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3807.~~ (1) Except as provided in subsections (2) and (3) of this section, using each district's tiered cost per student as determined in section 79-3805 656 of this act, total formula need for each district shall be computed by first multiplying the number of formula students in each grade grouping of kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by each such district's corresponding tiered cost per student in each grade grouping. The sum of such products shall be the district's total formula need.

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

(3) For calculation of state aid to be paid in school year 1993-94 and each school year thereafter, total formula need for the nonresident high school tuition fund of each county shall equal the total nonresident high school tuition charge for the county for each such school year as certified by the department pursuant to section 79-4,102 as such section existed immediately prior to July 1, 1993.

Sec. 661. Section 79-3808, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) The local effort rate shall be determined by the department. The local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in districts receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such districts when added to state aid appropriated by the Legislature for the ensuing school year and other actual receipts of districts described in section ~~79-3811~~ 664 of this act. The local effort rate for Class I districts, Class VI districts, and county nonresident high school tuition funds shall be based on the following schedule.

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

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

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

(b) For the calculation of state aid to be paid in school year 1994-95 and each school year thereafter, in addition to the local effort rate yield calculated pursuant to subsection (3) of this section, district formula resources for each Class II, III, IV, and V district shall include 38.6207 percent of the local effort rate multiplied by the adjusted valuation for the year in which the aid is to be paid as certified pursuant to section ~~79-3809~~ 662 of this act of Class I districts or portions thereof that are affiliated

with such district for such year.

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

Sec. 662. Section 79-3809, Revised Statutes Supplement, 1995, is amended to read:

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

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

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

(b) For agricultural land, eighty percent of market value as provided in sections 77-1359 to 77-1367 and 77-1371;

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

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

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

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

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

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

Sec. 663. Section 79-3810, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3810.~~ District formula resources shall include allocated income tax funds determined for each such district pursuant to the provisions of section ~~79-3804~~ 655 of this act.

Sec. 664. Section 79-3811, Reissue Revised Statutes of Nebraska, is amended to read:

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

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Nonresident high school tuition receipts, except that for the calculation of state aid to be paid in school years 1992-93, 1993-94, and 1994-95, other actual receipts shall include the district's total nonresident high school tuition charge for each such school year as certified by the department pursuant to section 79-4,102 as such section existed immediately prior to July 1, 1993;
- (4) Tuition receipts from individuals, other districts, or any other source except those derived from adult education;
- (5) Transportation receipts;
- (6) Interest on investments;
- (7) Other miscellaneous local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (8) Special education receipts;
- (9) Receipts from the state for wards of the court and wards of the state;
- (10) All receipts from the temporary school fund;
- (11) Receipts from the Insurance Tax Fund;
- (12) Pro rata motor vehicle license fee receipts;
- (13) Help Education Lead to Prosperity Act funds;
- (14) Amounts provided by the state on behalf of the district as reimbursement for repayment of personal property taxes by centrally assessed pipeline companies pursuant to section 77-3617;
- (15) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-4,118 ~~408 of this act~~;
- (16) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
- (17) All other noncategorical federal receipts;
- (18) All receipts pursuant to ~~Chapter 79, article 34 the enrollment option program under sections 36 to 51 of this act~~; and
- (19) Receipts under the federal Medicare Catastrophic Coverage Act of 1988 as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the district would have otherwise received pursuant to the Special Education Act.

Sec. 665. Section 79-3811.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-3811.01-~~ (1) If (a) federal legislation is enacted by October 1, 1995, providing that payments under section 3(d)(2)(B) of Public Law 81-874 are not required to be refunded for school year 1990-91 and (b) federal legislation is enacted with an effective date not later than October 1, 1995, (i) providing that funds need not be restored or reimbursed to affected local education agencies from state aid distributions for school year 1990-91 and deeming Nebraska not certified for school years 1991-92 through 1994-95 or (ii) deeming Nebraska to be certified for school year 1990-91 and deeming Nebraska not certified for school years 1991-92 through 1994-95, then on or about October 15, 1995, the department shall make payments, from funds separately appropriated for such purpose, to school districts which in school year 1990-91 received less state aid under the Tax Equity and Educational Opportunities Support Act than they would have received if no federal impact aid entitlements had been included in the calculation of district formula resources pursuant to section ~~79-3811 664 of this act~~. Each such school district shall receive the amount by which its state aid for school year 1990-91 was less than it would have been if no impact aid entitlements had been considered in the calculation of its state aid. No payments shall be made under this section to any school district which receives federal impact aid entitlements under section 3(d)(2)(B) of Public Law 81-874 or any similar provision of the 1994 reenactment of the impact aid statutes. Payments made pursuant to this section shall not be considered as district formula resources for purposes of calculation of state aid under the Tax Equity and Educational Opportunities Support Act.

(2) If no funds are separately appropriated by the Legislature under subsection (1) of this section, since funds for the school year 1990-91 may not be otherwise subject to adjustment under Chapter 79, the department shall set aside from the amount appropriated to the Tax Equity and Educational Opportunities Fund for school year 1995-96 the amounts specified in such subsection and (a) if the federal legislation referred to in such subsection

is enacted as provided therein, the department shall pay from the funds set aside the amounts specified in such subsection to the school districts specified in such subsection on or about October 15, 1995, or (b) if the federal legislation referred to in such subsection is not enacted, the funds set aside pursuant to this subsection shall be held by the department until it is finally determined, by appeal or otherwise, whether Nebraska is certified to take into consideration impact aid entitlements under Public Law 81-874 for state aid distribution for school year 1990-91. If Nebraska is so certified, such funds shall be reappropriated to the Tax Equity and Educational Opportunities Fund for distribution pursuant to the distribution formula in the Tax Equity and Educational Opportunities Support Act. If Nebraska is not so certified, the department shall pay from the funds set aside the amounts specified in subsection (1) of this section to the school districts specified in such subsection within sixty days after the final determination. Payments made pursuant to this section shall not be considered as district formula resources for purposes of calculation of state aid under the act.

Sec. 666. Section 79-3811.02, Revised Statutes Supplement, 1995, is amended to read:

~~79-3811.02-~~ Nothing in the Tax Equity and Educational Opportunities Support Act shall be construed as altering, amending, or changing in any manner the duties or obligations of the department under section ~~79-1369~~ 711 of this act, ~~nor shall~~ and the provisions of the act shall not be construed as relieving the department of its obligation to make appropriate aid allocation adjustments following a final determination of the amount of funds due to any school district under the provisions of or through the operation of the act.

Sec. 667. Section 79-3812, Revised Statutes Supplement, 1995, is amended to read:

~~79-3812-~~ There are hereby created the The School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund, each of which are created. Each fund shall consist of such sums as the Legislature may appropriate and be administered by the state board. The School District Income Tax Fund shall receive resident individual income tax appropriations made by the Legislature to make payments to districts of allocable income tax funds. The Tax Equity and Educational Opportunities Fund shall receive dedicated income tax appropriations and appropriations made by the Legislature to fund sections 79-3806 to 79-3811 657 to 664 of this act. Any money in such funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 668. Section 79-3813, Revised Statutes Supplement, 1995, is amended to read:

~~79-3813-~~ On or before July 15 for 1994 and on or before July 1 of each year thereafter, the department shall determine the amounts to be distributed to each district pursuant to sections ~~79-3804 and 79-3806 to 79-3811 655 and 657 to 664 of this act~~ and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each district. Such amounts shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each year and ending in June of the following year pursuant to warrants drawn against the School District Income Tax Fund and the Tax Equity and Educational Opportunities Fund. Such certified state aid amounts shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section ~~79-3815 670 of this act~~.

Sec. 669. Section 79-3814, Revised Statutes Supplement, 1995, is amended to read:

~~79-3814-~~ (1) Except as provided in subsection (2) of this section, no district shall increase its general fund budget of expenditures more than the applicable allowable growth percentage. The Legislature shall annually establish an allowable growth range which shall be expressed as basic allowable growth rates plus a specified number of percentage points. The Legislature shall set the basic allowable growth rates based on projections of available state revenue and the cost of living and cost of education from nationally accepted cost indexes which shall be provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Analyst, the Department of Revenue, and the State Department of Education.

(2) Notwithstanding any of the provisions of subsection (1) of this section and sections ~~79-3815 to 79-3821 670 to 676 of this act~~, the general fund budget of expenditures of each district shall not exceed the general fund budget of expenditures adopted for the immediately preceding school fiscal year unless a district, pursuant to the procedures and requirements specified

in subsection (1) of section ~~79-3820~~ 675 of this act, by an affirmative vote of seventy-five percent of the school board, votes to exceed such limitation, in which case the budget limitations and all other provisions of subsection (1) of this section and sections ~~79-3815 to 79-3821~~ 670 to 676 of this act shall apply.

Sec. 670. Section 79-3815, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3815-~~ (1) The department may require each district to submit to the department a duplicate copy of such portions of the district's budget statement as the Commissioner of Education directs. The department may verify any data used to meet the requirements of the Tax Equity and Educational Opportunities Support Act. The Auditor of Public Accounts shall make necessary changes in the budget documents for districts to effectuate the budget limitations imposed pursuant to sections ~~79-3814 to 79-3821~~ 669 to 676 of this act.

(2) If a school district fails to submit to the department or the auditor the budget documents required pursuant to subsection (1) of this section by the date established in section 13-508 or fails to make any corrections of errors in the documents pursuant to section 13-504, the commissioner, upon notification from the auditor or upon his or her own knowledge that the required budget documents and any required corrections of errors from any school district have not been properly filed in accordance with the Nebraska Budget Act and after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the required budget documents or corrections of errors are received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of the required budget documents or corrections of errors. The county treasurer shall withhold such money.

Sec. 671. Section 79-3816, Revised Statutes Supplement, 1995, is amended to read:

~~79-3816-~~ The basic allowable growth rate for general fund expenditures other than expenditures for special education shall be three percent and the allowable growth range shall be from three percent to five and one-half percent. The budget authority for special education shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority shall be used only for special education expenditures.

Sec. 672. Section 79-3817, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) For each district the department shall determine a target budget level by multiplying the average daily membership for the most recently available complete data year of each district in grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by the tiered cost per student as determined in section ~~79-3805~~ 656 of this act for each grade grouping. The sum of such products shall be each district's target budget level;

(2) The department shall establish a target budget level range of general fund operating expenditure levels for each district which shall begin at twenty percent less than the target budget level and end at the target budget level. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section ~~79-3816~~ 671 of this act, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in ~~section 79-3816~~ such section such that the lower end of the range shall be assigned the maximum allowable growth rate and the higher end of the range shall be assigned the basic allowable growth rate; and

(3) Each district's actual general fund operating expenditures shall be compared to its target budget level along the range described in subdivision (2) of this section to arrive at an applicable allowable growth rate as follows: If the district's actual general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section ~~79-3816~~ 671 of this act. If the district's actual general fund operating expenditures are greater than the higher end of the range, the district's allowable growth rate shall be the basic growth rate identified in ~~section 79-3816~~ such section. If the

district's actual general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear transition calculation between the end points of the range to arrive at the applicable allowable growth rate for the district.

Sec. 673. Section 79-3818, Reissue Revised Statutes of Nebraska, is amended to read:

79-3818- No district shall adopt a budget, which includes contingency funds, depreciation funds, and necessary general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

On or before July 1 of each year, the department shall determine and certify each district's applicable allowable reserve percentage.

Each district with combined necessary general fund cash reserves, depreciation funds, and contingency funds less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable growth percentage, increase its necessary general fund cash reserves by an amount which will increase its combined necessary general fund cash reserves, depreciation funds, and contingency funds by two percent of its total general fund budget of expenditures, except that (1) a district shall not increase such necessary general fund cash reserves when such increase will result in total necessary general fund cash reserves, depreciation funds, and contingency funds which exceed the applicable allowable reserve percentage and (2) a district may increase such necessary general fund cash reserves in excess of such two percent limitation due to projected increases in federal funds.

Sec. 674. Section 79-3819, Revised Statutes Supplement, 1995, is amended to read:

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

(2) A if the district demonstrates to the satisfaction of the state board that a new program is required by state or federal law or an existing program mandated by state or federal law has been expanded as a result of changes in state or federal law. For purposes of this subsection, a final order of a court, the State Board of Equalization and Assessment, the Tax Commissioner, the Tax Equalization and Review Commission, or the Property Tax Administrator from which no appeal is taken which requires reimbursement by a district of property taxes to a taxpayer shall be considered a new program required by state or federal law but shall not be included as part of the general fund budget of expenditures for purposes of section 79-3814 669 of this act.

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

Average daily membership of district	Projected increase of formula student 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 of each year, the department shall make needed revisions in the applicable allowable growth rate of districts which have been allowed additional growth pursuant to this subsection to reflect the actual formula students of such district and shall certify such revisions to each district.

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

~~(5) \*~~ (4) A district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that as a result of an order entered into by the Commission of Industrial Relations pursuant to section 48-818 establishing rates of pay, benefits, and other terms and conditions of employment, the district will exceed its applicable allowable growth rate. The department shall compute the amount by which the increase in employee costs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

~~(6) \*~~ (5) A district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of a contested, but settled, contract dispute, claim, or breach or uninsured risk or as a result of any final judgment of any court of competent jurisdiction, requiring or obligating the district to pay such judgment. The department shall compute the amount by which the increased cost of the settlement or judgment exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

Sec. 675. Section 79-3820, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3820-~~ (1) A district may exceed by an additional one percent the applicable allowable growth percentage prescribed in section ~~79-3817~~ 672 of this act upon an affirmative vote of at least seventy-five percent of the board. The vote shall be taken at a public meeting of the board following a special public hearing called for the purpose of receiving testimony on such proposed increase. The board shall give at least seven calendar days' notice of such public hearing and shall publish such notice at least once in a newspaper of general circulation in the district.

(2) A district may exceed the applicable allowable growth percentage prescribed in section ~~79-3817~~ 672 of this act by an amount approved by a majority of registered voters voting on the issue at a special election called for such purpose upon the recommendation of the board or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the registered voters of the district. The recommendation of the board or the petition of the voters shall include the amount and percentage by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the current year's general fund budget of expenditures. The county clerk or election commissioner shall call for a special election on the issue within fifteen days ~~of~~ after the receipt of such board recommendation or voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the district.

Sec. 676. Section 79-3821, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3821-~~ A district may choose not to increase its general fund budget of expenditures by the full amount of its applicable allowable growth rate. In such cases, the department shall calculate the amount of unused budget authority which shall be carried forward to future budget years so a district may increase its general fund budget of expenditures in future years by the amount of such total unused budget authority in addition to the district's applicable allowable growth rate for the specific budget year.

Sec. 677. Section 79-3822, Reissue Revised Statutes of Nebraska, is amended to read:

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

- (1) Appropriate an amount which will provide financial support from

all state sources to districts equal to forty-five percent of the estimated general fund operating expenditures of districts for the ensuing school year;

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

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

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

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

Sec. 678. Section 79-3823, Revised Statutes Supplement, 1995, is amended to read:

~~79-3823. There is hereby created the The School Finance Review Committee is created. The~~ ~~7~~ which committee shall be composed of representatives of the State Department of Education, the Property Tax Administrator, the Legislative Council, and each class of district, an expert in school finance, and a member of the general public. Except for the representative of the Legislative Council, who shall be selected by the Executive Board of the Legislative Council, and the representative of the State Department of Education, who shall be appointed by the State Board of Education, the committee members shall be appointed by the Governor. Committee members shall serve staggered three-year terms as the Governor shall designate designates, and committee members may be reappointed for one additional term. The committee shall monitor the operation of the school finance provisions of the Tax Equity and Educational Opportunities Support Act and suggest needed revisions in the act. In particular, the committee shall review the implementation and operation of the average daily membership tiers, budget growth limitations, the need for a continuing hold-harmless provision for state aid, and expenditures of districts pursuant to the act. The committee shall study and make specific recommendations for harmonizing the provisions of the act with the provisions of Laws 1990, LB 259, and the provisions of ~~Chapter 79, article 34~~ ~~sections 36 to 51 of this act.~~

The committee shall annually, on or before March 1, make a report to the Governor, Legislature, and State Board of Education on the progress of the act in effectuating property tax relief, broadening the tax base for the support of the public school system, equalization of the tax burden for the support of the public school system, equalization of educational opportunities for students, and the effects of budget limitations on district spending patterns.

Sec. 679. Section 79-3824, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3824.~~ (1) Except as otherwise provided in the Tax Equity and Educational Opportunities Support Act, state aid payable pursuant to the act for each school year shall be based upon data found in applicable reports for the most recently available complete data year. The annual financial reports of all school districts shall be submitted to the Commissioner of Education pursuant to the date prescribed in ~~subdivision subsection~~ (3) of section ~~79-451 281 of this act.~~ If a school district fails to timely submit its report, the commissioner, after notice to the district and an opportunity to be heard, shall direct that any state aid granted pursuant to the act be withheld until such time as the report is received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of such report. The county treasurer shall withhold such money.

(2) A district which receives federal funds in excess of twenty-five percent of its general fund budget of expenditures may apply for early payment of state aid paid pursuant to the act when such federal funds are not received in a timely manner. Such application may be made at any time by a district suffering such financial hardship and may be for any amount up to fifty percent of the remaining amount to which the district is entitled during the current fiscal year. The state board may grant the entire amount applied for or any portion of such amount if the state board finds that a financial hardship exists in the district. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, at the time of the next state aid payment made pursuant to section ~~79-3813 668 of this act,~~ draw a warrant for the lump-sum amount from

appropriated funds and forward such warrant to the district. For purposes of this subsection, financial hardship shall mean means a situation in which income to a district is exceeded by liabilities to such a degree that if early payment is not received it will be necessary for the district to discontinue vital services or functions.

## ARTICLE 10

## PART (b) - SCHOOL FUNDS

Sec. 680. Section 79-1301, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1301.~~ The county treasurer shall collect, or cause to be collected, the fines and all money for school purposes in his or her county, and take all proper measures to secure to each district its full amount of school funds. All county treasurers shall report to the State Treasurer and Tax Commissioner semiannually, on or before the third Monday of April and the first Monday of November and at such other times as the Tax Commissioner may require, a statement showing the whole amount of money collected on account of state, county, and district school tax, and behalf of school districts from all other sources respectively sources, noting the interest separately, and the amount received on account of licenses and fines, and from all other sources from which school funds are derived, together with a statement showing the amount paid out, to whom, and on what account. At the same time the county treasurer shall pay over to the State Treasurer all funds and money, from whatever source derived, belonging to the general school fund in his or her hands, and make a settlement thereof with the State Treasurer.

Sec. 681. Section 79-1302, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1302.~~ (1) The State Treasurer shall, each year on or before the third Monday in January, make a complete exhibit of all money belonging to the school fund of the state as returned to him or her from the several counties, together with the amount derived from other sources, and deliver such exhibit duly certified to the Commissioner of Education. Within twenty days thereafter after such delivery, the Commissioner of Education shall make the apportionment of the funds to each school district as follows: From the whole amount there shall be paid to those districts in which there are school or saline lands an amount in lieu of tax money that would be raised if such lands were taxable, to be fixed in the manner prescribed in section 79-1303 ~~682 of this act~~; and the remainder shall be apportioned to the districts according to the pro rata enumeration of children who are five through eighteen years of age in each district last returned from the county superintendent.

(2) The Commissioner of Education shall certify the amount of the apportionment of the school fund of the state as provided in subsection (1) of this section to the superintendent of the proper county and to the Director of Administrative Services. The Director of Administrative Services shall draw a warrant on the State Treasurer in favor of the various districts for the respective amounts so certified by the Commissioner of Education.

Sec. 682. Section 79-1303, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1303.~~ (1) In making the apportionment under section 79-1302 ~~681 of this act~~, the Commissioner of Education shall distribute from the school fund for school purposes, to any and all school districts in which there are situated school lands which have not been sold and transferred by deed or saline lands owned by the state, an amount in lieu of tax money that would be raised if such lands were taxable, to be ascertained in accordance with subsection (2) of this section, except that:

(a) For Class I districts or portions thereof which are affiliated and in which there are situated school or saline lands, 38.6207 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the affiliated school system tax levy computed pursuant to section 79-438-12 ~~723 of this act~~, shall be distributed to the affiliated high school district and the remainder shall be distributed to the Class I district;

(b) For Class VI districts or portions thereof which are part of a Class VI district which offers instruction in grades nine through twelve and in which there are situated school or saline lands, 38.6207 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the Class VI school system levy computed pursuant to section 79-438-13 ~~724 of this act~~, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district; and

(c) For Class I districts or portions thereof which are part of a Class VI district which offers instruction in grades seven through twelve and

in which there are situated school or saline lands, 55.1724 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the Class VI school system levy computed pursuant to section 79-438-13 724 of this act, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district.

(2) The county superintendents shall certify to the Commissioner of Education the tax levy for school purposes of each school district in which school land or saline land is located and the last appraised value of such school land, which value shall be the same percentage of the appraised value as the percentage of the assessed value is of market value in section 77-1360.01 for the purpose of applying the applicable tax levy for each district in determining the distribution to the districts of such amounts. The board of any school district in which there is located any leased or undeeded school land or saline land subject to this section may appeal to the Board of Educational Lands and Funds for a reappraisal of such school land if such school board deems the land not appraised in proportion to the value of adjoining land of the same or similar value. The Board of Educational Lands and Funds shall proceed to investigate the facts involved in such appeal and, if the contention of the school board is correct, make the proper reappraisal. The value calculation in this subsection shall be used by the Commissioner of Education for making distributions in the 1992-93 school year and every year thereafter.

Sec. 683. Section 79-1304, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1304-~~ (1) The several county superintendents Each county superintendent shall add (a) all money received by the county treasurer of his or her county on account of fines and licenses, (b) the proceeds from the sale of schoolhouses, sites, or other property of a school district, and (c) all unexpended balances of proceeds of taxes levied by a district when the district has been taken by the United States for any defense, flood control, irrigation, or war project.

(2) The sum total referred to in subsection (1) of this section shall be distributed to the several districts of the county pro rata according to the enumeration of those children who are five through eighteen years of age for which the district is obligated to report on the census last returned by the secretaries of the various districts.

Sec. 684. Section 79-1305, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1305-~~ When a district is formed from other districts where during the preceding school year school has been kept open the term required by law, such new district will be held and deemed to have had school the lawful time and apportionment shall be made to it accordingly.

Sec. 685. Section 79-1306, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1306-~~ After making the apportionment pursuant to section 79-1304 683 of this act, the county superintendent shall (1) enter the apportionment immediately in a book kept for that purpose and furnish the county treasurer with a certified copy of such apportionment, (2) furnish each of the secretaries of the respective school districts the secretary of each school district in the county a certificate showing the amount due such district, and (3) draw warrants on the county treasurer in favor of each individual district or certify to the county treasurer the amount due such district for its share of the apportionment.

Sec. 686. Section 79-1307, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1307-~~ County treasurers shall not charge for receiving and disbursing the school apportionment.

Sec. 687. Section 79-1307.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1307.01-~~ Each county treasurer shall, upon request of a majority of the members of the school board or board of education in any school district, at least once each month distribute to the district any funds collected by such county treasurer for school purposes.

Sec. 688. Section 79-1308, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1308-~~ Except as provided by the provisions of section 79-1308.01 section 689 of this act, school district treasurers are forbidden to shall not lend or use any part of the school money which may be in their hands under penalty of fine and imprisonment as provided by the statute regarding embezzlement under sections 28-509 to 28-518.

Sec. 689. Section 79-1308.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1308-01-~~ (1) Any school district may, by and with the consent of the school board or board of education of the school district, invest the funds of the school district in securities the nature of which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another. Every school district having invested in such securities shall deliver the same as funds of the office. The interest received on any investments authorized by this section shall be credited to the fund from which the money was taken to make the investment.

(2) The securities referred to in subsection (1) of this section may be invested in through repurchase agreements. Each repurchase agreement shall require that the items purchased through the repurchase agreement be subject to repurchase from the school district upon demand by the treasurer of the school district. No such repurchase agreement shall be entered into until the treasurer of the school district who proposes to enter into the repurchase agreement has received a perfected security interest in the securities as collateral for their prompt repurchase.

(3) All securities referred to in this section or in sections ~~79-1032 to 79-1060~~ 613 to 651 of this act may be held and evidenced by book entry account rather than through the holding and retaining of original certificates, indentures, or governing instruments for such securities.

Sec. 690. Section 79-1309, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1309-~~ The forest reserve funds, annually paid into the state treasury by the United States Government under an act of Congress approved June 30, 1906, shall be distributed among the ~~several~~ counties of the state entitled to the same, for the benefit of the public schools and the public roads of such counties, under the direction of the Commissioner of Education, in the following manner:

(1) The State Treasurer shall annually, on the first Monday in July, certify to the commissioner the amount of money received from the ~~national government~~ United States Government as Nebraska's proportionate share of the income from the forest reserves within the state for the fiscal year last past most recent complete fiscal year;

(2) ~~the~~ The Board of Educational Lands and Funds shall annually, on the first Monday in July, make and deliver to the commissioner a certificate showing the counties entitled to share in the Forest Reserve Fund, together with the number of acres of forest reserves in each county; and

(3) ~~the~~ The commissioner shall, on or before the third Monday in July, make apportionment of such funds to such counties according to the number of acres of forest reserve in each county, and certify the apportionment of each county to the county superintendent of the proper county and to the Director of Administrative Services. The director ~~who~~ shall draw a warrant on the State Treasurer in favor of the various counties for the amount ~~so~~ specified by the commissioner.

Sec. 691. Section 79-1310, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1310-~~ The ~~several~~ county superintendents shall, within twenty days after receiving ~~such apportionment~~ the apportionment under section 690 of this act, apportion the amount as follows: (1) To each school district lying wholly or partly within any such forest reserve, an amount equal to the actual per pupil cost for each pupil actually residing in that part of the district which is within such forest reserve, but this apportionment per pupil shall not exceed the average annual cost per pupil, based on average daily attendance within that county, ~~and~~ (2) of the remaining amount, one-fifth to the public road fund of the county, one-fifth equally to the several school districts in the county, and the remaining three-fifths to the several school districts in the county pro rata according to the enumeration of scholars last returned by the ~~secretaries of the various districts~~. The ~~and~~ PROVIDED, that the county superintendent shall, with the approval of the county board, have authority to retain the money to be allocated under this subdivision to Class I, II, and III school districts of the county to be used for the establishment and support of a county circulating library for Class I, II, and III school districts. ~~No~~ A school district which ~~shall have~~ has failed to sustain a school, taught by a legally qualified teacher, for the length of time required by law shall ~~not~~ be entitled to receive any portion of the Forest Reserve Fund.

Sec. 692. Section 79-1311, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1311-~~ The county superintendent shall, immediately after making ~~such the~~ apportionment under section 690 of this act, (1) enter the ~~same~~ apportionment in a book kept for that purpose, and furnish the county treasurer with a certified copy of such apportionment, (2) furnish ~~each of the~~

secretaries in the respective districts in his the secretary of each district in the county a certificate, showing the amount due such district, and (3) draw warrants on the county treasurer in favor of each individual district in the amount due such district for its share of the fund Forest Reserve Fund.

Sec. 693. Section 79-1312, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1312-~~ The public grazing funds, annually paid to the state treasury by the United States Government under an act of Congress approved ~~June 20, 1934,~~ known as the federal Taylor Act, 43 U.S.C. 315i, shall be distributed among the several counties of the state entitled to the same for the benefit of a county school library of such counties, under the direction of the Commissioner of Education, in the following manner:

(1) The State Treasurer shall annually, on the first Monday in July, certify to the commissioner the amount of money received from the ~~national government~~ United States Government as Nebraska's proportionate share of the income from the grazing lands within the state for the ~~fiscal year last past~~ most recent complete fiscal year;

(2) The Board of Educational Lands and Funds shall annually, on the first Monday in July, make and deliver to the commissioner a certificate showing the counties entitled to share in the grazing fund, together with the number of acres of grazing land in each county; and

(3) The commissioner shall, on or before the third Monday in July, make apportionment of such funds to such counties according to the number of acres of grazing land in each county, and certify the apportionment of each county to the county superintendent of the proper county and to the Director of Administrative Services. The director ~~who~~ shall draw a warrant on the State Treasurer in favor of the various counties for the amount so specified by the Commissioner of Education.

Sec. 694. Section 79-1313, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1313-~~ The several county superintendents shall use the fund received from such apportionment the apportionment under section 693 of this act to help support and maintain a county school library.

Sec. 695. Section 79-1315, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1315-~~ The funds paid to the State Treasurer by the United States Government, under an act of Congress known as the federal Flood Control Act, 33 U.S.C. 701c-3, on account of the leasing of lands acquired by the United States for flood control purposes in the State of Nebraska, shall be distributed among the several counties of the state entitled to the same for the benefit of the public schools and public roads of such counties.

Sec. 696. Section 79-1316, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1316-~~ The county in which the land described in section 695 of this act is situated on which lease rentals are paid shall be entitled to receive the same lease rentals for the benefit of the public schools and public roads of the county. When the land is situated in more than one county, the distributive share to each county from the lease rentals shall be proportional to its area therein such land's area within the county.

Sec. 697. Section 79-1317, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1317-~~ The distribution of the funds received by the State Treasurer under section 79-1315 695 of this act shall be made, under the direction of the Commissioner of Education, in the following manner:

(1) The State Treasurer shall annually, on the first Monday in July, certify to the commissioner the amount of money received from the United States Government as Nebraska's proportionate share of the income from the leasing of lands acquired by the United States for flood control purposes;

(2) The commissioner shall ascertain by appropriate inquiry in what counties the real estate on which lease rentals were paid was situated; and

(3) The commissioner shall, on or before the third Monday in July, make apportionment of such fund to the counties entitled thereto in accordance with section ~~79-1316,~~ 696 of this act and certify the apportionment of each county to the county superintendent of the proper county and to the Director of Administrative Services. The director ~~who~~ shall draw a warrant on the State Treasurer in favor of the various counties for the amount so specified by the commissioner.

Sec. 698. Section 79-1318, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1318-~~ The several county superintendents shall, within twenty days after receiving such apportionment the apportionment under section 697 of this act, apportion the amount as follows: One-fifth of the whole amount to

the public road fund of the county and the remaining four-fifths to the school districts in the county from which the rental was derived in proportion to the respective acreage of lands leased in each school district within the county by the United States Government which have been acquired for flood control purposes. The county superintendent of schools shall determine the amount each district is to receive and make apportionment thereof.

Sec. 699. Section 79-1319, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1319.~~ The county superintendent shall, immediately after making such apportionment the apportionment under section 698 of this act, enter the same apportionment in a book kept for that purpose and shall furnish the county treasurer with a certified copy of such apportionment. He ~~The county superintendent~~ shall also furnish each of the directors in the ~~respective districts~~ each district in the county a certificate, showing the amount due such district, which amount shall be subject to the order of the school district, through its proper officers, on the county treasurer.

Sec. 700. Section 79-1320, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1320.~~ The State of Nebraska accepts the provisions of the federal Educational Finance Act of 1949, enacted by the 81st Congress of the United States.

Sec. 701. Section 79-1321, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1321.~~ The funds to be received from the federal government under ~~said act~~ the federal Educational Finance Act of 1949 shall be administered by the Commissioner of Education, who shall represent the State of Nebraska in the administration of such funds.

Sec. 702. Section 79-1322, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1322.~~ The Educational Finance Fund is created. The State Treasurer shall receive the funds paid to the State of Nebraska under the ~~act~~ federal Educational Finance Act of 1949 and shall keep all money received in a separate fund to be known as the Educational Finance Fund ~~the fund.~~ The State Treasurer shall submit to the United States Commissioner Secretary of Education, on or before the first day of November of each year, for transmission to the Congress, a detailed statement of the amount so received for the preceding fiscal year and of its disbursement.

Sec. 703. Section 79-1323, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1323.~~ An annual audit of the expenditure of the funds received under the ~~act~~ federal Educational Finance Act of 1949 shall be made by the Auditor of Public Accounts. Copies of the ~~and~~ copies of said audit shall be furnished the Commissioner of Education for his or her information and for submission to the United States Commissioner Secretary of Education.

Sec. 704. Section 79-1324, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1324.~~ All district school boards or boards of education of school districts receiving funds under the ~~act~~ federal Educational Finance Act of 1949 shall report periodically to the Commissioner of Education on forms provided by him or her.

Sec. 705. Section 79-1325, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1325.~~ The Commissioner of Education shall make reports to the United States Commissioner Secretary of Education with respect to the progress of education, on forms to be provided by the United States Commissioner Secretary of Education.

Sec. 706. Section 79-1326, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1326.~~ The amounts paid to the State of Nebraska from funds appropriated pursuant to section 3 of the federal Educational Finance Act of 1949, shall be apportioned to the counties according to an amount per pupil in average daily attendance at public elementary and secondary schools within such ~~each~~ school district, and distributed by the county superintendent to the ~~several~~ school districts of the county according to an amount per pupil in average daily attendance at public elementary and secondary schools within such school district. The ~~and~~ PROVIDED, that the State Department of Education shall formulate and effectuate, for each fiscal year beginning after June 30, 1953, a plan for the apportionment of such amounts paid to the state, under which there will be available from all sources, to each public school district in the state for current expenditures for public elementary school and public secondary school education, an amount per pupil in average daily attendance at public elementary and secondary schools within such school district, not less

than fifty dollars or, in any fiscal year for which the amount to be paid to the state is less by reason of the provisions of paragraph (F) of section 4 of the federal act than the amount of the federal allotment to the state, an amount which bears the same ratio to fifty dollars as ninety-eight percent of the funds appropriated for such fiscal year pursuant to section 3 of the federal act bears to the sum of all federal allotments under section 4 of the federal act.

Sec. 707. Section 79-1327, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1327.~~ The State of Nebraska shall transmit, through the Commissioner of Education, to the United States ~~Commissioner~~ Secretary of Education, notice of acceptance and certified copies of all legislative enactments and of all regulations that may be issued by the Commissioner of Education in connection with such funds under the federal Educational Finance Act of 1949. Any amendment to such enactments and revisions of regulations shall, in like manner, be transmitted to ~~said the~~ the United States ~~Commissioner~~ Secretary of Education.

Sec. 708. Section 79-1328, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1328.~~ All money paid semiannually to the State Treasurer by the United States Government under ~~an act of Congress approved February 25, 1920,~~ known as the federal Mineral Leasing Act, shall be placed in the permanent school fund, ~~of the state,~~ subject to the laws governing such permanent school fund.

Sec. 709. Section 79-1345, Revised Statutes Supplement, 1995, is amended to read:

~~79-1345.~~ There is hereby established a The State Department of Education Trust Fund which is created. The fund shall consist of all property, real or personal, acquired by donation, devise, or bequest by the Nebraska School for the Visually Handicapped, by the Nebraska School for the Deaf, or by any school for children with mental retardation which is exclusively owned by the State of Nebraska and under the control and supervision of the State Department of Education and all money derived from the sale or lease of property donated, devised, or bequeathed to any such school. Out of money in such fund not restricted from such use by the terms of the donation, devise, or bequest, ~~there shall be established~~ an emergency cash fund of not to exceed five hundred dollars shall be established for immediate and unusual needs as may arise. Such emergency cash fund shall be reimbursed from the State Department of Education Trust Fund for any expenditures.

Any money in the State Department of Education Trust 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, subject to the following exceptions: (1) No such investment need be made if, according to the terms of the donation, devise, or bequest, the State Board of Education is not limited to the expenditure of only the interest or income derived from the donation, devise, or bequest; and (2) no such investment shall be made if the will or instrument making such donation, devise, or bequest makes other provisions or directions as to investment and in such cases the state investment officer, acting for the State Board of Education, shall comply with the provisions or directions of such will or instrument if such provisions or directions are not inconsistent with the laws of this state.

Sec. 710. Section 79-1346, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1346.~~ There is hereby created in the state treasury a special fund to be known as the The State Department of Education Cash Fund is created. Except as to other revenue the disposition of which is otherwise provided for, all sums of money received by the State Department of Education from the sale of goods and materiel, fees from any training program or services rendered, and any revenue such department may receive from any other source shall be paid into the state treasury and remitted to the State Treasurer shall deposit the money in for credit to the State Department of Education Cash Fund. The State Treasurer shall disburse such amounts in the cash fund as are available and ~~as shall be~~ considered incident to the administration and operation of the State Department of Education. Money in the State Department of Education Cash Fund may be transferred to the General Fund at the direction of the Legislature. All disbursements for the fund State Department of Education Cash Fund shall be made upon vouchers issued by the State Department of Education and warrants drawn by the Director of Administrative Services. Any money in the State Department of Education Cash 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. 711. Section 79-1369, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1369.~~ The State Department of Education shall adjust payments provided under Chapter 79 to school districts which, after final determination, received funds not equal to the appropriate allocation for a previous year such that the district will receive all funds to which it was finally determined to be entitled. The department shall maintain an accurate account and a record of the reasons the adjustments were made and the amount of such adjustments.

Sec. 712. Section 79-1371, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1371.~~ All ratepayers of public power districts, public power and irrigation districts, municipalities, electric cooperatives, electric membership corporations, or other entities which construct electric generating facilities benefit from such construction, and due to the influx of large numbers of workers and their families during certain periods of such construction, residents in areas surrounding such electric generating facility sites may sustain additional tax burdens for the education of the workers' children. It is hereby determined and declared to be the public policy of this state that, in order to promote the general health, welfare, and quality of education, ~~that~~ any public power district, public power and irrigation district, municipality, electric cooperative, electric membership corporation, or other entity engaged in such construction may use its funds for the purpose of paying money to certain school districts as provided in sections ~~79-1371 to 79-1374~~ 712 to 715 of this act in order to alleviate the impact resulting from such construction, and any such use of funds is hereby determined to be for a public purpose.

Sec. 713. Section 79-1372, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1372.~~ If either parent of a student attending public schools in any school district is employed in the construction of an electric generating facility, as determined by the school district within one hundred fifty days after commencement of the school year, the public power district, public power and irrigation district, municipality, electric cooperative, electric membership corporation, or other entity constructing and owning such facility may pay to any such impacted school district, upon written request with certified supporting information from such school district, an amount which shall not exceed the amount derived by (1) taking the total receipts of such school district from the local property tax levy for the preceding school year, less one-half of any amount included therein which is provided for the payment of servicing bonded indebtedness on any school facility, plus depreciation at the annual rate of three percent on any school facility, (2) dividing the total thereof by the average daily membership of resident students in such school district for the preceding school year, and (3) multiplying the resulting quotient by the number of children of such employees attending such school district in the current year.

Sec. 714. Section 79-1373, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1373.~~ For each school year commencing with the 1977-78 school year, which has begun or has been completed prior to February 19, 1981, a public power district, public power and irrigation district, municipality, electric cooperative, electric membership corporation, or other entity subject to sections ~~79-1371 to 79-1374~~ 712 to 715 of this act may pay to any impacted school district, upon written request with certified supporting information from such school district within one hundred eighty days ~~from after~~ February 19, 1981, an amount which shall not exceed the amount calculated in accordance with the formula set forth in section ~~79-1372~~ 713 of this act as applied to the applicable school year.

Sec. 715. Section 79-1374, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1374.~~ Prior to any payment to an impacted school district as provided in sections ~~79-1371 to 79-1374~~ 712 to 715 of this act, the governing body of the public power district, public power and irrigation district, municipality, electric cooperative, electric membership corporation, or other entity constructing and owning such electric generating facility shall find and determine that such payment will promote the general health, welfare, and quality of education and will be in the best interests of the entity in its proprietary capacity and its relations with its employees, its contractors, and the public generally.

Sec. 716. Section 79-1384, Reissue Revised Statutes of Nebraska, is

amended to read:

~~79-1384-~~ (1) Any class of school district may borrow money to the amount of seventy percent of the unexpended balance of total anticipated receipts of the general fund, special building fund, bond fund, or environmental hazard abatement and accessibility barrier elimination project fund for the current year and the following year. Total anticipated receipts of the general fund, special building fund, bond fund, or environmental hazard abatement and accessibility barrier elimination project fund for the current year and the following year shall mean a sum equal to the total of (a) the anticipated receipts from the current existing levy multiplied by two, (b) the anticipated receipts from the United States for the current year and the following year, and (c) the anticipated receipts for other sources from from other sources for the current year and the following year.

Any class of school district may execute and deliver in evidence thereof their promissory notes which they are hereby authorized and empowered to make and negotiate, bearing a rate of interest set by the school board or board of education and maturing not more than two years from the date thereof. Such notes, before they are negotiated, shall be presented to the treasurer of the school district and registered by him or her and shall be payable out of the funds collected by such school district in the order of their registry after the payment of prior registered warrants but prior to the payment of any warrant subsequently registered, except that if both warrants and notes are registered, the total of such registered notes and warrants shall not exceed one hundred percent of the unexpended balance of the total anticipated receipts of the general fund, special building fund, bond fund, or environmental hazard abatement and accessibility barrier elimination project fund of such district for the current year and the following year. For the purpose of making such calculation, such total anticipated receipts shall not include any anticipated receipts against which the school district has borrowed and issued notes pursuant to this section in either the current or the immediately preceding year.

(2) In addition to the authority granted by subsection (1) of this section, such school districts may accept interest-free or low-interest loans from the state or federal government and may execute and deliver in evidence thereof their promissory notes maturing not more than twenty years from the date of execution.

(3) In addition to the authority granted by subsections (1) and (2) of this section, any class of school district may enter into loan agreements for the purpose of borrowing money from financial institutions, including banks, in amounts not in excess of seventy percent of the unexpended balance of their current existing levy. As evidence of such borrowing, a school district may execute and deliver one or more written loan agreements but shall not be required to execute and deliver separate promissory notes for each borrowing under such agreements. Money borrowed pursuant to such agreements shall bear interest at such rate or rates and shall become due and be repaid as provided in such agreements. Any such agreement shall provide for repayment in full at least once each fiscal year and shall be for a term not exceeding one year. Any such agreement shall be registered upon books kept by the treasurer of the school district, and money borrowed pursuant to such agreement shall be paid out of funds collected upon the current existing levy prior to the payment of any warrant or note registered subsequent to any such loan agreement. If a school district has any such loan agreement or agreements outstanding and has warrants or notes registered, as described in subsection (1) of this section, the total amount (a) of borrowings pursuant to such loan agreement or agreements and (b) of registered notes and warrants shall not exceed one hundred percent of the unexpended balance of the current existing levy.

(4) Nothing in this section shall be construed to exempt a school district from the terms and conditions contained in sections 10-701 to 10-716.

Section 79-1385, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1385-~~ Section 79-1384 716 of this act shall be independent of and in addition to any other provisions of the laws of the State of Nebraska, and such section shall not be considered amendatory of or limited by any other laws of the State of Nebraska. Nothing in such section shall Such section does not prohibit or limit the issuance of notes or borrowing by school districts in accordance with any other applicable laws of the State of Nebraska if the school board or board of education determines to issue such notes or incur borrowings under such laws.

Section 79-546.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-546.01-~~ The school board or board of education of any Class II,

III, IV, V, or VI school district may establish a contingency fund for losses. Such contingency fund shall be established and maintained by transfers from the general fund of such school district as authorized by the school board or board of education of such school district. Disbursements from such contingency fund shall not exceed five percent of the total budgeted general fund expenditures of the school district and shall be used only for defense against losses, payment of losses, and transfer of funds to the general fund of such school district as authorized by the school board or board of education of such school district.

ARTICLE 10  
PART (c) - SCHOOL TAXATION

Sec. 719. Section 79-432, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-432.~~ The aggregate school tax levied for general school purposes in Class I, II, III, and VI school districts shall be without restriction.

Sec. 720. Section 79-433, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-433.~~ (1) It shall be the duty of the The county clerk of any county in which a part of a joint school district is located shall, on or before the date prescribed in section 13-509, ~~to~~ certify the taxable valuation of all taxable property of such part of the joint district to the clerk of the headquarters county in which the schoolhouse or the administrative office of the school district is located.

(2) ~~It shall be the duty of the The~~ county clerk of any county in which a part of a joint affiliated school system is located shall, on or before the date prescribed in section 13-509, ~~to~~ certify the taxable valuation of all taxable property of such part of the joint affiliated school system to the clerk of the headquarters county in which the schoolhouse or the administrative office of the high school district is located.

Sec. 721. Section 79-434, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-434.~~ (1) The county board of the county in which is located the schoolhouse or the administrative office of any joint school district shall make a levy for the school district, as may be necessary, and the county clerk of that headquarters county shall certify the levy, on or before the date prescribed in section 77-1601, to the county clerk of each county in which is situated any portion of the joint school district. This section shall apply to all taxes levied on behalf of school districts, including, but not limited to, taxes authorized by sections 10-304, 10-711, 10-716.01, and 77-1601-79-424, ~~79-438-12, 79-4,207, 79-542, 79-547.04, 79-607, 79-810, 79-903, 79-1007, 79-1007.02, 79-1052, and 79-1435.03 and sections 421, 647, 723, 730, 731, 732, 746, 756, 764, 766, 768, and 772 of this act.~~

(2) The county board of the county in which is located the schoolhouse or the administrative office of the high school district of a joint affiliated school system shall make a levy for the joint affiliated school system, as may be necessary, and the county clerk of that headquarters county shall certify the levy, on or before the date prescribed in section 77-1601, to the county clerk of each county in which is situated any portion of the joint affiliated school system. This section shall apply to all taxes levied on behalf of affiliated school systems, including, but not limited to, taxes authorized by ~~sections 10-716.01, 79-438-12, and 79-4,207 section 10-716.01 and sections 723 and 756 of this act.~~

Sec. 722. Section 79-437.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-437.03.~~ The county superintendent and the county treasurer in each county maintaining a nonresident high school tuition fund created pursuant to section 79-437, which ~~section~~ was repealed as of July 1, 1993, shall maintain an account to receive delinquent tax collections for the nonresident high school tuition levy, proceeds from the Tax Equity and Educational Opportunities Support Act and the Special Education Act, and any other funds legally due the nonresident high school tuition fund. The balance in such account shall periodically be distributed to school districts in the following order of priority:

(1) Class II, III, IV, V, and VI districts which have not received full payment of nonresident high school tuition charges certified pursuant to sections 79-4,102 to 79-4,104, as such sections existed immediately prior to July 1, 1993, until each district has received full payment; and

(2) Class I districts which affiliate pursuant to section ~~79-402-13~~ 173 of this act or become part of a Class VI district and any Class II, III, IV, or V district with which a Class I district merges or forms a new Class

II, III, IV, or V district.

The distribution shall be made to such districts in payments as nearly as practicable in the proportion that the taxable valuation of taxable property of each such Class I district bears to the total taxable valuation of all Class I districts comprising the nonresident high school tuition fund.

Sec. 723. Section 79-438.12, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-438-12-~~ (1) Whenever the affiliation of a Class I district or portion thereof becomes final, the general fund property tax requirement of the high school district and each Class I district or portion thereof in an affiliated school system shall be certified to the county superintendent and county clerk for computation of an affiliated school system tax levy. The proceeds of such tax levy, upon collection by the county, shall be distributed to the districts in the affiliated school system in amounts which are in proportion to the amounts of the general fund property tax requirements certified by such districts to the county superintendent and county clerk. Such tax levy shall be computed as follows:

(a) If one or more Class I districts affiliate with only one high school district, the sum of the general fund property tax requirements of the high school district and all such Class I districts shall be divided by the sum of the assessed valuation, in hundreds, of all such districts; or

(b) If a Class I district or portion thereof affiliates with more than one high school district, such Class I district's general fund property tax requirement shall be apportioned to respective portions of such Class I district for purposes of this computation based on each portion's assessed taxable valuation in relation to the total assessed valuation of all affiliated portions of the Class I district certified by the county clerk pursuant to section 79-433 720 of this act, and the affiliated school system tax levy shall be computed as though it were a single district as prescribed in subdivision (a) of this subsection.

(2) When a Class I district or portion thereof affiliates in part with one or more districts and in part becomes a part of one or more Class VI districts, the tax levy assessed on taxable property within the Class I district to fund the portion of the budget of the Class I district which is to come from the general fund property tax requirement shall be made as follows:

(a) The proportionate share of the Class I district budget allocable to any affiliated system shall be assessed on all property within such affiliated system as described in this section; and

(b)(i) For the 1992-93, 1993-94, and 1994-95 school years, the proportionate share of the Class I general fund property tax requirement not allocable to any affiliated system shall be divided by the assessed valuation, in hundreds, of the property of the Class I district which is not affiliated. The resulting tax levy shall be assessed upon all taxable property in the portion of the Class I district which is not affiliated.

(ii) Beginning with the 1995-96 school year, the proportionate share of the Class I general fund property tax requirement not allocable to any affiliated system shall be assessed in accordance with section ~~79-438-13~~ 724 of this act.

Sec. 724. Section 79-438.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-438-13-~~ Commencing with the 1995-96 school year, the general fund property tax requirement of the Class VI school district and each Class I school district or portion thereof in a Class VI school system shall be certified to the county superintendent and county clerk for computation of a Class VI school system tax levy. The proceeds of such levy, upon collection by the county, shall be distributed to the districts in the Class VI school system in amounts which are in proportion to the amounts of the general fund property tax requirement certified by such districts to the county superintendent and county clerk. Such levy shall be computed as follows: The sum of the property tax requirements necessary to fund the general fund property tax requirement of the Class VI school system shall be divided by the assessed valuation, in hundreds, of the system. If only a portion of a Class I district is part of the Class VI district, such Class I district's general fund property tax requirement shall be apportioned to respective portions of such Class I district for purposes of this computation based on each portion's assessed taxable valuation in relation to the total assessed valuation of the entire Class I district.

Sec. 725. If the school district boundaries of a school district of a city of the metropolitan class extend outside the city, such part of the school district shall have its tax levy extended upon the county tax list, in the manner provided for in other school districts of the county, outside the school district of such city. Such taxes shall be paid to the county

treasurer at the same time that other school district taxes are paid.

Sec. 726. Section 79-538, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-538.~~ All taxes collected for the benefit of the public schools in Class IV and V school districts shall be paid in money and shall be subject to the order of the board of education.

Sec. 727. Section 79-904, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-904.~~ The tax for bond interest for a Class IV school district shall in no one year exceed such amount as will, with the balance on hand in such fund, be sufficient to pay the bond interest as the same shall become it becomes due. The tax for the bond sinking fund shall not exceed a sum sufficient to pay the principal of such bonds as it becomes due or to pay each year such number of the bonds as will retire them all at or before their maturity. The amount of tax levied for the retirement plan fund and for general school purposes shall be without restriction, except that the aggregate school tax levy for all purposes shall not in any one year exceed such rate as shall be necessary to provide the sums reported in the estimate returned in accordance with section 79-903 731 of this act. The amount of tax levied for the building and equipment fund shall not in any one year exceed fourteen cents on each one hundred dollars.

Sec. 728. Section 79-1007.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1007.01.~~ The aggregate school tax, for a Class V school district exclusive of the special levy to pay accrued liabilities of the retirement fund authorized by section 79-1052 647 of this act, and exclusive of the levy for the site and building fund as authorized by section 79-1007-02 772 of this act, shall be without restriction.

#### ARTICLE 10

##### PART (d) - SCHOOL BUDGETS AND ACCOUNTING

Sec. 729. Section 79-435, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-435.~~ At the time the budget statement is certified to the levying board, each school board or board of education shall deliver to the county superintendent and the county clerk of the headquarters county a copy of its adopted budget statement.

Sec. 730. Section 79-810, Revised Statutes Supplement, 1995, is amended to read:

~~79-810.~~ The board of education of a Class III school district shall annually, on or before September 20, report in writing to the county board the entire revenue raised by taxation and all other sources and received by such board of education for the previous fiscal year and a budget for the ensuing fiscal year in form of a resolution broken down generally as follows: (1) The amount of funds required for the support of the schools during the ensuing fiscal year; (2) the amount of funds required for the purpose of school sites; (3) the amount of funds required for the erection of school buildings; (4) the amount of funds required for the payment of interest upon all bonds issued for school purposes; and (5) the amount of funds required for the creation of a sinking fund for the payment of such indebtedness. The secretary shall publish, within ten days after the filing of such budget, a copy of such budget one time at the legal rate prescribed for the publication of legal notices in a legal newspaper published in and of general circulation in such city or village or, if none is published in such city or village, in a legal newspaper of general circulation in the city or village. The secretary of such board of education failing or neglecting to comply with this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum not exceeding twenty-five dollars for each offense and, in the discretion of the court, the judgment of conviction may provide for the removal from office of such secretary for such failure or neglect. ~~It shall be the duty of the county board to~~ The county board shall levy and collect such taxes as are necessary to provide the amount of revenue from property taxes as indicated by all the data contained in the budget and the certificate prescribed by this section, at the time and in the manner provided in section 77-1601.

Sec. 731. Section 79-903, Revised Statutes Supplement, 1995, is amended to read:

~~79-903.~~ The board of education of a Class IV school district, on or before September 20 of each year, shall make or cause to be made and report to the county board an estimate of the amount of funds required for the fiscal year next ensuing: (1) For the payment of interest on bonds issued by the

district; (2) to provide a sinking fund for the payment of bonds issued by the district; (3) to provide for the purchase and betterment of school sites and the remodeling, erection, and equipment, but not replacement, of buildings, new and old; (4) to provide the necessary funds, premiums, contributions, and expenses in connection with a retirement, annuity, insurance, or other benefit plan adopted by the board of education for its present and future employees after their retirement, or any reasonable classification thereof; and (5) to provide for the support of schools, being the running expenses and miscellaneous and all other expenses for such year.

The estimate shall be accompanied by a budget statement prepared in accordance with good accounting practices and showing probable revenue from all sources, expenditures, and available balances upon which such estimate was based. The estimate and the budget statement may include such items as the board of education deems necessary to maintain adequate working balances of cash at all times and to take into account the expenses and delays in the collection of taxes. The county board shall levy the rate of tax necessary to provide the amounts so reported by the board of education and collect such taxes in like manner as other taxes are levied and collected.

Sec. 732. Section 79-1007, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1007-~~ The board of education of a Class V school district shall annually, during the month of July, estimate the amount of resources likely to be received for school purposes, including the amounts available from fines, licenses, and other sources. Before the county board of equalization makes its levy each year, the board of education shall report to the county clerk the rate of tax deemed necessary to be levied upon the taxable value of all the taxable property of the district subject to taxation during the fiscal year next ensuing for (1) the support of the schools, (2) the purchase of school sites, (3) the erection, alteration, equipping, and furnishing of school buildings and additions to school buildings, (4) the payment of interest upon all bonds issued for school purposes, and (5) the creation of a sinking fund for the payment of such indebtedness. The county board of equalization shall levy the rate of tax so reported and demanded by the board of education and collect the tax in the same manner as other taxes are levied and collected. The fiscal year of a Class V school district shall commence on September 1 of each year and end on August 31 of each year.

Sec. 733. Section 79-1007.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1007-03-~~ The board of education is authorized and required to of a Class V school district shall provide for the interest on all existing bonds issued by the district before it ~~shall become due.~~ it the interest becomes due. The board shall also, immediately after the expiration of one-half of the time for which such bonds are issued, proceed to set apart each year, for a sinking fund, a requisite amount or proportion sufficient to pay the principal of the bonds when they ~~shall~~ become due. All money set apart for the sinking fund shall be invested as follows:

(1) In the purchase of and redemption of bonds of the school district, which bonds shall be purchased in the open market in such manner as the board of education ~~shall prescribe~~ prescribes;

(2) In bonds of the city constituting the school district;

(3) In bonds of the county ~~wherein~~ in which such district is situated;

(4) In bonds of the State of Nebraska; and

(5) In United States bonds.

Sec. 734. Section 79-4,141, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,141-~~ The State Department of Education shall prescribe a uniform system of accounting, to which all public school districts in the State of Nebraska shall adhere.

Sec. 735. Section 79-4,141.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,141-01-~~ In each Class I, II, III, IV, V, and VI school district the school board or board of education shall cause to be examined annually by a public accountant or by a certified public accountant all financial records which are maintained directly or indirectly in the administration and management of public school funds. Rules and regulations governing the scope, extent, pattern, and report of the examination shall be adopted and promulgated by the State Board of Education with the advice and counsel of the Auditor of Public Accounts. A copy of the report shall be filed with the Commissioner of Education and the Auditor of Public Accounts on or before November 15. A copy of the report regarding the examination of a Class I school district shall be filed with the Commissioner of Education and

the county superintendent on or before November 15. When any school district fails to comply with this section, the commissioner shall, after notice to the district and an opportunity to be heard, direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the district has complied with this section. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of compliance by the district with this section. The county treasurer shall withhold such money.

Sec. 736. Section 79-4,159, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,159.~~ When a school board or board of education of any class of school district fails to approve a school district budget on or before September 10, the county superintendent of the county where the administrative headquarters of the school district is located shall prepare and file a budget document shall be prepared and filed in accordance with the Nebraska Budget Act by the county superintendent of the county where the administrative headquarters of the school district is located for the school district's general fund and for each other fund for which the district budgeted in the immediately preceding fiscal year. The document shall use using the total budget of expenditures and cash reserves from the immediately preceding fiscal year, except that in no case shall the budget of expenditures or cash reserves exceed any limits prescribed in the Tax Equity and Educational Opportunities Support Act or other state laws. The county superintendent shall also estimate the revenue from sources other than property tax for each fund in accordance with subdivision (1)(c) of section 13-504 and section 79-3013 668 of this act.

Sec. 737. Section 79-810.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-810.01.~~ The fiscal year of each ~~Class III~~ school district shall commence on September 1 in each year and end on August 31 of each year.

Sec. 738. Section 79-1007.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1007.04.~~ All money arising from any source whatever, which is payable to the school fund of any primary city or any city of the primary class or city of the first class which may become a metropolitan city of the metropolitan class, or any money which is required to be set apart by the treasurer of any such city for the support and maintenance of any school ~~therein in such city~~, shall be payable to the treasurer of the board of education, and shall be used only for the purposes specified in sections ~~79-1001 to 79-1007.05 158, 225, 275, 288 to 290, 305, 314, 315, 320, 326, 327, 336, 337, 345, 346, 728, 732, 733, 738, and 772 of this act.~~

Sec. 739. Section 79-543.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-543.01.~~ (1) The board of education ~~in of~~ a Class III, IV, or V school district may contract ~~for~~ (a) ~~for the service of~~ machine accounting and payroll processing ~~services~~, (b) ~~for the service of~~ disbursing school funds as ordered by the board of education, (c) ~~for the service of~~ paying net salaries or wages earned by professional and other personnel employed by the board of education, (d) ~~for the service of~~ remitting to appropriate collection agencies sums withheld from salaries and wages, and (e) ~~for any other computerized service which the board of education may deem deems necessary or desirable.~~ Payment of salaries and wages as ~~herein recited~~ provided in this section shall be made to the employee in bank credit or cash, as the employee may specify.

(2) The bank or fiscal agent under contract as ~~herein provided~~ provided in this section shall furnish to the board of education a report at the end of each month detailing (a) the sums received for deposit in the school district account, (b) the amount disbursed to payees as designated by the secretary or authorized clerk of the board of education, and (c) the unexpended balance in the school district account. ~~Nothing contained herein shall be construed to This section does not~~ modify, limit, waive, or abrogate the responsibility and the liability of the contracting board of education for the security and safe custody of school funds as required by law, or for their proper use and application to school district indebtedness as provided by law.

ARTICLE 10  
PART (e) - SITE AND FACILITIES ACQUISITION, MAINTENANCE, AND DISPOSITION

Sec. 740. Section 79-469, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-469.~~ The school board or board of education of any district maintaining more than one school is authorized to ~~may~~ close any school or schools within such district and to ~~may~~ make provision for the education of children either in another school of ~~said the~~ district, or in the school of any other district, or by correspondence instruction for such children as may be physically incapacitated for traveling to or attending other schools, with the permission of the parent and on the approval of the county superintendent.

Sec. 741. Section 79-4,107, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,107.~~ Every school district shall have power to exercise the right of eminent domain. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Sec. 742. Section 79-4,114, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,114.~~ Not more than fifty acres for a school site may be taken under the provisions of section ~~79-4,107~~ 741 of this act. Public parks and county or district fairgrounds shall not be subject to be so taken. A public hearing shall be held on the question of such taking. Notice of such public hearing shall be given once each week for three successive weeks prior ~~thereto to the hearing~~ in a legal newspaper published in or of general circulation in the county. Such notice shall include the purpose and location of the hearing.

Sec. 743. Section 79-4,117, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,117.~~ When a school district desires to locate a schoolhouse on school lands belonging to the state, it ~~shall be permitted to may~~ purchase not less than one acre ~~nor and not~~ more than ten acres per school site, and shall receive a deed ~~therefor for such land~~ from the state.

Sec. 744. Section 79-422, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-422.~~ Whenever it is deemed necessary (1) to erect a schoolhouse or school building or an addition or additions and improvements to any existing schoolhouse or (2) to purchase equipment for such schoolhouse or school buildings, in any school district in this state, the school board or board of education may and, upon petition of not less than one-fourth of the legal voters of the school district, shall submit to the people of the school district at the next general election or special election a proposition to vote a special annual tax for that purpose of not to exceed seventeen and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such district for a term of not to exceed ten years. Such special tax may be voted at any annual or special meeting of the district by fifty-five percent of the legal voters attending such meeting.

Sec. 745. Section 79-423, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-423.~~ In all Class I school districts, the proposition described in section 744 of this act shall be submitted at any annual or special meeting of the electors of the school district. In all other districts the manner of submission shall be governed in substance by section 23-126.

Sec. 746. Section 79-424, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-424.~~ The school board or board of education, upon being satisfied that all the requirements of sections 79-422 ~~and~~ 79-423 ~~744 and~~ 745 of this act have been substantially complied with and that fifty-five percent of all votes cast at ~~said the~~ election under such sections are in favor of such tax, shall ~~cause enter~~ enter such proposition and all the proceedings had thereon, ~~to be entered upon the records of said the~~ school district and shall certify ~~said the~~ special tax levy to the county clerk as other tax levies.

Sec. 747. Section 79-425, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-425.~~ Such sum so The sum levied and collected under section 746 of this act shall (1) ~~shall~~ constitute a special fund for the purposes for which the same was voted, (2) ~~shall~~ not be used for any other purpose, unless otherwise authorized by a fifty-five percent majority vote of the voters of ~~said the~~ school district cast at ~~said election the election under sections 744 and 745 of this act~~, (3) ~~shall~~ be paid over to the county treasurer of the county ~~wherein in which~~ the administrative office of such school district is located, (4) ~~shall~~ be kept by the county treasurer and treasurer of the school district separate and apart from other district funds, and (5) ~~shall~~ be subject to withdrawal as provided in section 79-460; ~~PROVIDED, that any 340 of this act.~~ Any portion of such sum so levied and collected, the expenditure of which ~~shall not be is not~~ required to effectuate the purposes for which such sum was voted, may be transferred by the school board or board of education,

at any regular or special meeting, by the vote of a majority of the members attending, to the general fund of the district. All funds received by the district treasurer for such purpose shall be immediately invested by such treasurer in United States Government bonds or in such securities as the Board of Educational Lands and Funds may invest the permanent school funds of the State of Nebraska during the accumulation of such sinking fund.

Sec. 748. Section 79-425.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-425.01-~~ No school district shall build a schoolhouse outside its district except as provided in section 79-543 ~~765 of this act~~ or when built on land owned by the federal government when such land is controlled under a freeholders lease agreement.

Sec. 749. Section 79-4,153, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,153-~~ (1) The school board or board of education of any school district may lease, purchase, acquire, own, manage, and hold title to real property which is located outside of its school district for laboratory, recreation, camping, or educational facilities, ~~except~~ ~~7~~ ~~PROVIDED~~, that any purchase costing (a) more than one thousand dollars by any Class I or II school district, or (b) more than five thousand dollars by any Class III, IV, V, or VI school district, shall be submitted to a vote of the voters in that school district seeking to acquire the property.

(2) The election provisions of this section ~~shall not apply to situations do not apply~~ when a school district which currently owns real property outside the school district desires to lease, purchase, acquire, own, manage, and hold title to additional real property located contiguous to such property for laboratory, recreation, camping, or educational facilities.

Sec. 750. Section 79-4,153.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,153.01-~~ (1) A school district may acquire, except by eminent domain, real property for use in instructing students in the practical application of skills taught in classes offered by such school district. A school district may construct or improve buildings upon such property, including, but not limited to, buildings constructed or improved as a part of a buildings trade program offered by such district.

(2) Any construction on, or improvement or use of, property acquired pursuant to subsection (1) of this section shall be in compliance with applicable building codes and zoning requirements.

(3) A school district may sell or lease property acquired pursuant to subsection (1) of this section directly or through an agent.

Sec. 751. Section 79-4,154, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,154-~~ ~~The governing board school board or board of education of any public school district may enter into a lease or lease-purchase agreement for the exclusive use of its individual jurisdiction for such buildings or equipment as the governing board determines necessary. Such lease or lease-purchase agreements may not exceed a period of seven years. All payments pursuant to such leases shall be made from current building funds or general funds. No school district shall directly or indirectly issue bonds to fund any such lease-purchase plan for a capital construction project exceeding twenty-five thousand dollars in costs unless it first obtains a favorable vote of the electorate pursuant to Chapter 10, article 7. Nothing in this section shall This section does not prevent the governing board school board or board of education of any public school district from refinancing a lease or lease-purchase agreement without a vote of the electorate for the purpose of lowering finance costs regardless of whether such agreement was entered into prior to July 9, 1988.~~

Sec. 752. Section 79-4,142, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,142-~~ The school board or board of education of ~~every~~ any school district may in its discretion permit the use of public school buildings for public assemblages under such rules and regulations as it may adopt. The ~~school board or board of education board~~ may exact such rental as may be necessary to meet the expense of such meeting, restore the property, and pay for extra help required.

Sec. 753. Section 79-4,142.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,142.01-~~ The school board or board of education of any school district may lease, upon such terms and conditions as it determines, any school district property, or portion thereof, which it determines is not needed for the immediate use of the school district.

Sec. 754. Section 79-4,145, Reissue Revised Statutes of Nebraska,

is amended to read:

~~79-4,145-~~ Any city or village in this state ~~is authorized and empowered to may~~ convey title to any real estate owned by any such city or village dedicated or used as a public park, to the school district in any such city or village within ~~whose boundaries the boundaries of which~~ such real estate ~~may lie lies~~, whenever in the judgment of the governing body of any such city or village such real estate is no longer necessary or desirable for use as a public park. The judgment of such governing body shall be evidenced by a resolution, which resolution shall not be finally passed earlier than the next succeeding regular meeting of such governing body after the ~~one regular meeting~~ at which it was introduced.

Sec. 755. Section 79-4,146, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,146-~~ Any such real estate conveyed under the provisions of section ~~79-4,145~~ ~~754~~ of this act may be used by such school district only in the manner and to the extent that other real estate owned by such school district may be used.

Sec. 756. Section 79-4,207, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,207-~~ (1) ~~Each~~ A school board ~~or board of education~~, after making a determination that an actual or potential environmental hazard or accessibility barrier exists within the school buildings or grounds under its control, may make and deliver to the county clerk of such county in which any part of the school district is situated, not later than September 10, an itemized estimate of the amounts necessary to be expended for the abatement of such environmental hazard or accessibility barrier elimination in its school buildings or grounds. ~~Each school~~ The board shall conduct a public hearing on the itemized estimate prior to presenting such estimate to the county clerk. Notice of the place and time of such hearing shall, at least five days prior to the date set for hearing, be published in a newspaper of general circulation within the school district or be sent by direct mailing to each resident within the district.

(2) The ~~school~~ board shall designate the particular environmental hazard abatement project or accessibility barrier elimination project for which the tax levy provided for by this section will be expended, the period of years, which shall not exceed ten years, for which the tax will be levied for such project, and the amount of the levy for each year ~~thereof of the period~~. The ~~school~~ board may designate more than one project and levy a tax pursuant to this section for each such project, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each levy will not exceed the limitations specified in this section. Each levy for a project which is authorized by this section may be imposed for such duration as shall be specified by the ~~school~~ board notwithstanding the contemporaneous existence or subsequent imposition of any other levy for another project imposed pursuant to this section and notwithstanding the subsequent issuance by the district of bonded indebtedness payable from its general fund levy.

(3) The county clerk shall levy such taxes, not to exceed five and one-fifth cents per one hundred dollars of taxable valuation, on the taxable property of the district necessary to cover the project costs itemized by the ~~school~~ board. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the treasurer of the district and used to cover the project costs.

(4) If such ~~school~~ board operates grades nine through twelve as part of an affiliated school system, it shall designate the fraction of the project to be conducted for the benefit of grades nine through twelve. Such fraction shall be raised by a levy placed upon all of the taxable value of all taxable property in the affiliated school system pursuant to subsection (2) of section ~~79-434~~ ~~721~~ of this act. The balance of the project to be conducted for the benefit of grades kindergarten through eight shall be raised by a levy placed upon all of the taxable value of all taxable property in the district which is governed by such ~~school~~ board. The combined rate for both levies in the high school district, to be determined by such board, shall not exceed five and one-fifth cents on each one hundred dollars of taxable value.

(5) Each ~~school~~ board which submits an itemized estimate shall establish an environmental hazard abatement and accessibility barrier elimination project fund. Taxes collected pursuant to this section shall be credited to such fund to cover the project costs. Such estimates may be presented to the county clerk and taxes levied accordingly. The Director of Health shall, by January 1, ~~of the years~~ 1993, 1995, 1997, and 1999, deliver a report to the Legislature estimating the amount of hazardous materials which

remain in the public schools of the state.

(6) The itemized estimate submitted by a school board may include the actual cost of abatement of an environmental hazard when such abatement occurred prior to the delivery of such estimate to the county clerk and was completed after June 28, 1982.

(7) For purposes of this section:

(a) Abatement shall include, but not be includes, but is not limited to, any inspection and testing regarding environmental hazards, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate environmental hazards, any removal or encapsulation of environmentally hazardous material or property, any restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate environmental hazards in the school buildings or on the school grounds under the school board's control, except that abatement shall does not include the encapsulation of any material containing more than one percent friable asbestos;

(b) Accessibility barrier shall mean means anything which impedes entry into, exit from, or use of any building or facility by all people;

(c) Accessibility barrier elimination shall include, but not be includes, but is not limited to, inspection for and removal of accessibility barriers, maintenance to reduce, lessen, put an end to, diminish, control, dispose of, or eliminate accessibility barriers, related restoration or replacement of facilities or property, any related architectural and engineering services, and any other action to eliminate accessibility barriers in the school buildings or grounds under the school board's control; and

(d) Environmental hazard shall mean means any contamination of the air, water, or land surface or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation.

(8) Accessibility barrier elimination project costs shall include, but not be includes, but is not limited to, inspection, maintenance, accounting, emergency services, consultation, or any other action to reduce or eliminate accessibility barriers.

(9) For the purpose of paying amounts necessary for the abatement of environmental hazards and accessibility barrier elimination, the school board may borrow money and issue bonds and other evidences of indebtedness of the district, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the district of amounts received in respect of the tax levy provided for by this section and any other funds of the district available therefor. Bonds and other evidences of indebtedness issued by a district pursuant to this subsection shall not constitute a general obligation of the district or be payable from any portion of its general fund levy.

Sec. 757. Section 79-504, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-504.~~ The qualified voters in a Class I or II school district, of the first or second class, when lawfully assembled, shall have power to may adjourn from time to time, as may be necessary, to designate a site for a schoolhouse by a vote of fifty-five percent of those present, and to change the same by a similar vote at any annual or special meeting. In any school district where in which the schoolhouse is located three-fourths of one mile or more from the center of such district, such schoolhouse site may be changed to a point nearer the center of the district by a majority vote of those present at any such school meeting. In any school district containing more than one hundred fifty children who are five through twenty years of age and having a district school board of six trustees, the schoolhouse site therein in the district may be changed and the purchasing of a new site directed, either or both, at any annual or special meeting, by a fifty-five percent vote of those present at any such meeting. A schoolhouse site shall not be changed more than once in any one school year.

Sec. 758. Section 79-505, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-505.~~ When no site can be established by such inhabitants, as provided in section 79-504 757 of this act, the county superintendent of the county in which the district is situated shall determine where such site shall be, and his or her determination shall be certified to the secretary of the district and shall be final, except that such decision may be changed by the county superintendent on a written request of fifty-five percent of the qualified voters of the district.

Sec. 759. Section 79-507, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-507.~~ The qualified voters of a Class I school district shall also, at any annual or special meeting, authorize and direct, by a fifty-five percent vote, the sale of any schoolhouse, site, building, or other property belonging to the district when ~~the same~~ it is no longer needed for the use of the district. When real estate is sold, the district may convey the same by deed, signed by the president of the district, and such deed, when acknowledged by such officer to be the act of the district, may be recorded in the office of the register of deeds of the county in which the real estate is situated, in like manner as other deeds.

Sec. 760. Section 79-521, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-521.~~ No school property of any kind belonging to any Class II, III, IV, or VI school district shall be sold by the school board or board of education except at a regular meeting of the ~~same board~~ and with an affirmative recorded vote of at least two-thirds of all the members of the board. Proceeds of sale of school property, sold as ~~above provided,~~ provided in this section may be held separately from other funds of the school district and may be used for any school purpose as the board of ~~education~~ may determine, including, but not limited to, acquiring sites for school buildings or teacherages and purchasing existing buildings for use as school buildings or teacherages, including the sites upon which such buildings are located, and the erection, alteration, equipping, and furnishing of school buildings or teacherages.

Sec. 761. Section 79-530, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-530.~~ School property of any kind belonging to any Class IV or V district shall not be sold by the board of education, except at a regular meeting, ~~and not then without~~ and with an affirmative recorded vote of at least two-thirds of all the members of the board.

Sec. 762. Section 79-532, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-532.~~ If it ~~shall be~~ is deemed advisable by the board of education of a Class IV or V school district to purchase bonds issued by the district before maturity, the treasurer shall sell to the highest bidder in the open market, and in a manner prescribed by the board, such bonds or securities as ~~shall~~ belong to the school funds, and the proceeds thereof shall apply to purchase of bonds issued by the district.

Sec. 763. Section 79-541, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-541.~~ The qualified voters of any Class III or VI school district of the third or sixth class shall have the power, at an election or at any annual or special meeting, to (1) ~~to~~ direct the purchasing or leasing of any appropriate site and the building, hiring, or purchasing of a teacherage for the purpose of providing housing facilities for the school employees of the district, (2) ~~to~~ determine the amount necessary to be expended for such purposes the succeeding year, and (3) ~~to~~ vote on a tax on the property of the district for the payment of the ~~same amount~~.

Sec. 764. Section 79-542, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-542.~~ A tax to establish a special fund for the building, hiring, or purchasing of a teacherage for the purpose of providing housing facilities for the school employees of the district in any Class III or VI district may be levied when authorized by fifty-five percent of the qualified electors voting on the proposition. The notice of the proposal to establish such special fund shall include the sum to be raised or the amount of the tax to be levied, the period of years, and the time of its taking effect. If fifty-five percent of the qualified electors voting at any such election vote in favor thereof of the proposition, the result of such election shall be certified to the county board which, upon being satisfied that all the requirements have been substantially complied with, shall cause the proceedings to be entered upon the record of the county board and shall make an order that the levy be made in accordance ~~therewith~~ with the election result and collected as other taxes.

Sec. 765. Section 79-543, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-543.~~ A Class III, IV, or V school district of the third, fourth, or fifth class may purchase, acquire, own, manage, and hold title to real estate for future school sites, which, at the time of such purchasing or acquiring, is outside such school district in a territory not more than three miles beyond the limits of such district but contiguous thereto. Such ~~7~~ PROVIDED, such district shall ~~not~~ erect no school buildings thereon on the real estate prior to the inclusion of such real estate within the boundaries

of such a school district. ~~If~~ AND PROVIDED FURTHER, that if the real estate so acquired adjoins the purchaser's district, the acquisition thereof shall constitute of the real estate constitutes an annexation of such real estate to the purchaser's district. The intervention of a street, road, or highway between the real estate to be acquired and the purchaser's district shall does not preclude such real estate from being considered as adjoining the purchaser's district.

Sec. 766. Section 79-547.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-547.04.~~ The school board or board of education of a Class II, III, IV, V, or VI school district may establish a special fund for purposes of acquiring sites for school buildings or teacherages, purchasing existing buildings for use as school buildings or teacherages, including the sites upon which such buildings are located, and the erection, alteration, equipping, and furnishing of school buildings or teacherages and additions to school buildings for elementary and high school grades and for no other purpose. Such fund shall be established from the proceeds of an annual levy, to be determined by the board, ~~of education,~~ of not to exceed fourteen cents on each one hundred dollars upon the taxable value of all taxable property in the district which shall be in addition to any other taxes authorized to be levied for school purposes. Such tax shall be levied and collected as are other taxes for school purposes.

Sec. 767. Section 79-606, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-606.~~ Qualified voters of a Class I school district may at any annual or special meeting (1) direct the purchasing or leasing of any appropriate site and the building, hiring, or purchasing of a schoolhouse, a teacherage for the purpose of providing housing facilities for the school employees of the district, or other school buildings, (2) determine the amount necessary to be expended for such purposes the succeeding year, and (3) vote a tax on the property of the district for the payment of the ~~same amount.~~

Sec. 768. Section 79-607, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-607.~~ A tax to establish a special fund for the purpose of erection or repair of a schoolhouse and equipment or the building, and purchasing existing buildings for use as school buildings, including the sites upon which such buildings are located, hiring, or purchasing of a teacherage for the purpose of providing housing facilities for the school employees of the district in any Class I school district may be levied when authorized by fifty-five percent of the qualified electors voting on the proposition. The notice of the proposal to establish the special fund shall include the sum to be raised or the amount of the tax to be levied, the period of years, and the time of its taking effect. The tax shall be subject to the restrictions of section ~~79-422~~ 744 of this act as to maximum amount and term. If fifty-five percent of the qualified electors voting at any such election vote in favor thereof, the result of such election shall be certified to the county board which, upon being satisfied that all the requirements have been substantially complied with, shall ~~cause enter~~ the proceedings to be entered upon the record of the county board and shall make an order that the levy be made and collected as other taxes.

Sec. 769. Section 79-608, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-608.~~ The provisions of sections 23-504 to 23-507 which relate to special funds for erection of courthouses shall apply so far as practicable to the procedure under sections ~~79-607 to 79-610,~~ the 768 to 771 of this act. The school board or district trustees having have power to contract for the erection or repair of the building under the same restrictions as the county board in case of the erection of a courthouse, and any residue of such tax ~~going into~~ shall be credited to the school district general fund.

Sec. 770. Section 79-609, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-609.~~ The amount of special tax levied under sections ~~79-607 to 79-610~~ 768 to 771 of this act shall not exceed seventeen and five-tenths cents on each one hundred dollars upon the taxable value of all taxable property in the school district above the amount allowed by law for general school purposes, and the total amount voted for the period of years shall not exceed five percent of the taxable valuation of the school district.

Sec. 771. Section 79-610, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-610.~~ If fifty-five percent of the qualified electors voting on the proposition under section 768 of this act vote in favor of the proposition, the school board may at once proceed to carry out the purpose of the

the levy, and to do so, the board may issue warrants, as needed, not to exceed eighty-five percent of the amounts raised by the levy, against the fund voted. The interest on any such warrants shall be paid annually.

Sec. 772. Section 79-1007.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1007-02. There shall be established a Class V school district shall establish (1) for the general operation of the schools, such fund as will result from an annual levy of such rate of tax upon the taxable value of all the taxable property in such school district as the board of education determines to be necessary for such purpose. (2) a - A further fund resulting from an annual amount of tax to be determined by the board of education of not to exceed fourteen cents on each one hundred dollars upon the taxable value of all the taxable property in the district shall be established for the purpose of acquiring sites of school buildings and the erection, alteration, equipping, and furnishing of school buildings and additions to school buildings, and such which tax levy shall be used for no other purposes, and (3) - There shall be established a further fund resulting from an annual amount of tax to be determined by the board of education to pay interest on and retiring, funding, or servicing of bonded indebtedness of the district.~~

Sec. 773. Section 79-1061, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1061- Whenever it shall be is determined by the board of education of a Class V school district that the real estate described as Capitol Square, being a subdivision in the city of Omaha, Douglas County, Nebraska, and being within the northwest quarter of the northwest quarter of section twenty-two, township fifteen, north, range thirteen, east of the sixth principal meridian, together with the south twelve feet of vacated Davenport Street adjoining such premises on the north, which was deeded by the State of Nebraska to the city in which such school district is located, for educational purposes, is no longer suitable for such use, and that it would be to in the best educational interests of such city and school district that such real estate and the buildings and improvements erected and maintained thereon by the school district be sold, and the proceeds of such sale used for the purchase of another school site and the erection of such a school building or buildings thereon as are authorized under sections 79-1061 to 79-1069 773 to 781 of this act, such property may be sold pursuant to the provisions of sections 79-1061 to 79-1069 such sections or pursuant to section 79-1070 782 of this act, notwithstanding restrictions in the original deed to the city prohibiting the sale and conveyance of such property.~~

Sec. 774. Section 79-1062, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1062- The school district may file a petition in the district court of the county in which such real estate as described in section 79-1061 773 of this act is situated, setting forth the terms and conditions of the original deed from the State of Nebraska, the provisions of sections 79-1061 to 79-1069 773 to 781 of this act, and the findings of the board of education as to the desirability of sale.~~

Sec. 775. Section 79-1063, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1063- The metropolitan city of the metropolitan class holding title to such real estate as described in section 79-1061 773 of this act and the State of Nebraska, grantor in the original deed to the city, shall be made parties defendant in such proceedings, and served with summons as in civil actions.~~

Sec. 776. Section 79-1064, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1064- If, after an examination of the pleadings of the respective parties and hearing the evidence, it shall appear appears to the court (1) that the record title of the metropolitan city of the metropolitan class in such real estate as described in section 79-1061 773 of this act is restricted to educational purposes, and (2) that the exclusive control of all property within the school district used for educational purposes, under the general provisions of Chapter 79, article 10, is reposed in the school district, (3) that such city and the State of Nebraska have no beneficial, proprietary, or reversionary interest therein, (4) that the state has by sections 79-1061 to 79-1069 773 to 781 of this act authorized the removal of the restrictions against the sale of said the property, and (5) that it is in the public interest and for the best interests of the school district that such property be sold and the proceeds of such sale be used by the school district for the purchase of a school site in a different location and the construction of such a school building or buildings thereon as are authorized under sections 79-1061 to 79-1069 773 to 781 of this act, then the court shall~~

enter a decree terminating ~~said~~ the restrictions against alienation of record, finding that the beneficial interest in ~~said~~ the property is in the school district, and directing the sale of ~~said~~ the property in accordance with the provisions of sections 79-1061 to 79-1069 773 to 781 of this act.

Sec. 777. Section 79-1065, Reissue Revised Statutes of Nebraska, is amended to read:

79-1065. The court shall, after entry of the decree under section 776 of this act, thereupon appoint three appraisers to ascertain the fair value of ~~said~~ the real estate as described in section 79-1061 773 of this act and the improvements thereon. Such appraisers shall be disinterested freeholders residing within the school district, who are qualified by knowledge and experience to determine the fair value of property of the particular character involved. The appraisers shall, before entering upon their duties, take and subscribe an oath that they will support the Constitutions of United States and of the State United States Constitution and the Constitution of Nebraska and will faithfully and impartially discharge their duties as required by law.

Sec. 778. Section 79-1066, Reissue Revised Statutes of Nebraska, is amended to read:

79-1066. Upon the filing of the report of the appraisers appointed in accordance with section 79-1065 777 of this act, the court shall fix the fees allowed such appraisers for their services, which fees shall be paid by the school district. If the board of education ~~shall be~~ is satisfied with the amount of such appraisal, the court, upon the application by the district, shall issue an order directing the sheriff of the county to sell the property as described in section 79-1061 773 of this act at public auction to the highest cash bidder, but for not less than ninety percent of the appraised value. Notice of such sale and the time and place where the ~~same sale~~ shall be held shall be given by publication three consecutive weeks in some legal newspaper published in the county where the property is located or, if none is published in such county, in a legal newspaper of general circulation in the county where the property is located. Proof of such publication shall be made by the affidavit of the publisher to be filed in the proceedings. In making such sale, the sheriff shall act in his or her official capacity and shall be liable on his or her official bond for all his or her acts incident to such sale. The sheriff shall receive for his or her services an amount to be determined by the court, to be paid by the school district as part of the costs of the action.

Sec. 779. Section 79-1067, Reissue Revised Statutes of Nebraska, is amended to read:

79-1067. The sheriff shall file a report of ~~his~~ the proceedings pursuant to the order of sale under section 778 of this act. If it ~~shall appear~~ appears, upon the filing of such report, that the sale has in all respects been made in conformity to the provisions of sections 79-1061 to 79-1069 773 to 781 of this act, that the property as described in section 79-1061 773 of this act was sold for its fair value under the circumstances and conditions of the sale, and for not less than ninety percent of its appraised value, and that a subsequent sale would not realize a greater amount, the court shall enter an order (1) confirming ~~said~~ the sale, (2) directing the city to convey title to ~~said~~ the property to the purchaser, free and clear of all restrictions upon its use previously imposed by the State of Nebraska, and (3) quieting title in such purchaser.

Sec. 780. Section 79-1068, Reissue Revised Statutes of Nebraska, is amended to read:

79-1068. Any party to the proceedings under sections 773 to 779 of this act shall have the right of appeal, as in other civil actions, from the final order and judgment of the district court to the Court of Appeals.

Sec. 781. Section 79-1069, Reissue Revised Statutes of Nebraska, is amended to read:

79-1069. If, upon the final determination of the action, the sale under sections 773 to 780 of this act is ratified and confirmed, the court shall direct the sheriff to pay to the school district the proceeds of such sale, and shall direct the board of education of such school district to place the proceeds of the sale in the fund set apart by law for the purchase of school sites and the construction of high school buildings, to be used for the purchase of a site and the construction of such school buildings and for no other purpose.

Sec. 782. Section 79-1070, Reissue Revised Statutes of Nebraska, is amended to read:

79-1070. Whenever it shall ~~be~~ is determined by the board of education of a Class V school district that it would be in the best educational interests of the school district that any portion of the real

estate legally described in section 79-1061 773 of this act and any buildings and improvements erected and maintained thereon, be conveyed to the United States, the State of Nebraska, any political subdivision of the state, or to any nonprofit corporation which is legally organized and existing under the laws of the state, such portion of the property may be conveyed by such city and school district upon such terms and conditions as are acceptable to such board of education, notwithstanding any restrictions in the original deed to the city prohibiting such conveyance. Such conveyance shall not be subject to the provisions of sections 79-1062 to 79-1069 774 to 781 of this act. Any proceeds or other consideration received by the school district from such conveyance shall belong solely to the school district, to be used by it for such purposes authorized by the laws governing such school district.

ARTICLE 11 - SPECIAL POPULATIONS AND SERVICES  
PART (a) - EARLY CHILDHOOD EDUCATION

Sec. 783. Section 79-3701, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3701-~~ (1) The Legislature hereby finds and declares that: (a) Early childhood and parent education programs can assist children in achieving their potential as citizens, workers, and human beings; (b) early childhood education has been proven to be a sound public investment of funds not only in assuring productive, taxpaying workers in the economy but also in avoidance of increasingly expensive social costs for those who drop out as productive members of society; (c) the key ingredient in an effective early childhood education program is a strong family education component because the role of the parent is of critical importance; (d) while all children can benefit from quality, developmentally appropriate early childhood education experiences, such experiences are especially important for at-risk infants and children; and (e) current early childhood education programs serve only a fraction of Nebraska's children and the quality of current programs varies widely.

(2) ~~Therefore, it~~ is the intent of the Legislature and the public policy of this state to encourage the provision of high-quality early childhood education programs for infants and young children. The purpose of sections 79-3701 to 79-3703 783 to 785 of this act is to provide state assistance for early childhood education training and pilot projects and to encourage coordination between public and private service providers of early childhood education and child care.

Sec. 784. Section 79-3702, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3702-~~ (1) The State Board of Education shall establish or designate, under the jurisdiction of the State Department of Education, an Early Childhood Training Center. The purpose of the center shall be is to train individuals who provide education and development activities for infants and young children and their parents. The center, taking into consideration existing public and private training efforts, shall provide support and assistance to schools and public and private providers of early childhood education services in developing training programs for staff. The center, taking into consideration existing public and private training efforts, shall also provide clearinghouse information and publications on available early childhood education training opportunities throughout the state.

(2) The center shall establish a statewide training program to support the development of parent education programs in local communities. The goal of this project shall be is to train individuals who will be able to work with public and private providers of early childhood services to establish parent education programs in their communities.

Sec. 785. Section 79-3703, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3703-~~ (1) The State Board of Education shall establish the Early Childhood Education Pilot Project Program. The State Department of Education, with the assistance of an Early Childhood Education Pilot Project Steering Committee appointed by the State Board of Education, shall establish guidelines and criteria for pilot projects. Based on such criteria and guidelines, the board shall request proposals from local school districts and cooperatives of school districts and select four proposals for early childhood education pilot projects. Each project selected shall be provided funds of up to one hundred thousand dollars per year.

(2) Each pilot project which is accepted by the board shall include (a) a planning period of at least six months, (b) an agreement to participate in an evaluation of the project to be specified by the department, (c) evidence that the project will be coordinated or contracted with existing programs, including Head Start and services for handicapped children below

five years of age as provided in the Special Education Act, and (d) a plan to use a combination of funding sources, including sliding fee scales, to maximize the participation of diverse groups.

(3) Each project shall also demonstrate the following elements of quality early childhood education programs, including: (a) A strong family education component recognizing the central role of parents in their children's development; (b) well-trained staff and optimum staff and child ratios; (c) developmentally appropriate curriculum, practices, and assessment; (d) sensitivity to the economic and logistical needs and circumstances of families in the provision of services; (e) integration of children of diverse social and economic characteristics; (f) a sound evaluation component, including at least one objective measure of child performance and progress; and (g) continuity with programs in kindergarten and elementary grades.

(4) One pilot project shall be located in each of the three congressional districts and one shall be located at large according to the decision of the department.

(5) The pilot projects shall continue for three calendar years, and by July 1, 1995, the department shall conduct an overall evaluation of the success or failure of the pilot projects and components thereof. A report evaluating the pilot projects shall be made to the State Board of Education and the Legislature by November 30, 1995.

Sec. 786. Any school board or board of education in its discretion may (1) establish and financially support programs providing before-and-after-school or preschool services to which attendance shall be voluntary and which the board may deem beneficial to the education of prekindergarten or school-age children and (2) provide or financially support transportation for children to, from, or to and from programs as defined in section 71-1910. The board may charge a fee, not to exceed the actual cost, for providing such programs and services but may waive such fee on the basis of need. This section does not allow any school district to fail to meet its responsibilities under the Special Education Act.

#### ARTICLE 11

##### PART (b) - GIFTED CHILDREN / LEARNERS WITH HIGH ABILITY

Sec. 787. Section 79-339, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-339-~~ The State Department of Education shall have ~~has~~ authority to employ a special consultant trained and experienced in the field of special education for gifted children. Such consultant shall encourage, advise, and consult with each school of the state in the development and implementation of plans for special education of gifted children. For purposes of this section, gifted children shall ~~mean~~ means children who excel markedly in ability to think, reason, judge, invent, or create and who need special facilities or educational services or both such facilities and services in order to assist them to achieve more nearly their potentials for their own sakes as individuals and for the increased contributions they may make to the community, state, and nation.

Sec. 788. Section 79-4001, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4001-~~ The purpose of sections ~~79-4001 to 79-4004~~ 788 to 791 of this act is to assist and encourage all school districts in the development, improvement, and implementation of educational programs or services that will serve the educational needs of learners with high ability at levels appropriate for their abilities.

Sec. 789. Section 79-4002, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4002-~~ For purposes of sections ~~79-4001 to 79-4004~~ 788 to 791 of this act:

(1) Approved programs or services shall ~~mean~~ means programs or services that serve the educational needs of learners with high ability developed and approved under section ~~79-4003~~ 790 of this act;

(2) Department shall ~~mean~~ means the State Department of Education; and

(3) Learner with high ability shall ~~mean~~ means a student who gives evidence of high performance capability in such areas as intellectual, creative, or artistic capacity or in specific academic fields and who requires services or activities not ordinarily provided by the school in order to develop those capabilities fully.

Sec. 790. Section 79-4003, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4003-~~ For school year 1997-98 and each school year thereafter,

each school district or educational service unit serving or contracting with a school district to provide programs or services shall identify learners with high ability, and each such school district or educational service unit shall, contingent upon available local, state, or federal funding, provide programs or services that will address the educational needs of the identified students at levels appropriate for the abilities of those students. The programs or services shall meet the standards of quality for programs or services for learners with high ability established by the department. Any school district or educational service unit shall be eligible to apply for funds from the Education Innovation Fund to be used for development and improvement of the approved programs or services of the district or unit.

Sec. 791. Section 79-4004, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4004.~~ The department shall monitor the efforts of school districts and educational service units to implement approved programs or services and shall appoint a full-time professional employee and the necessary support staff to carry out this section.

ARTICLE 11

PART (c) - SPECIAL EDUCATION

SUBPART (i) - SPECIAL EDUCATION ACT

Sec. 792. Section 79-3301, Revised Statutes Supplement, 1995, is amended to read:

~~79-3301.~~ Sections ~~79-3301 to 79-3370~~ 792 to 866 of this act shall be known and may be cited as the Special Education Act.

Sec. 793. Section 79-3302, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3302.~~ It is the intent of the Legislature that all children in the State of Nebraska, regardless of physical or mental capacity, are entitled to a meaningful educational program.

Sec. 794. Section 79-3302.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3302.01.~~ (1) The Legislature finds and declares that:

(a) Special education is and will continue to be of significant interest to education policymakers, educators, parents, taxpayers, and, most importantly, to students;

(b) The fiscal resources requested to provide educational services to children with disabilities and the need for accountability for those resources requires a comprehensive and reliable system of review;

(c) Fiscal resources are limited while program expansion and pressures for additional programs and services are being experienced;

(d) Nebraska needs to establish educational standards for children with disabilities, including special education and related services which must be provided to children with disabilities;

(e) Current accountability systems do not adequately measure the efficiency and effectiveness of special education programs;

(f) Current accountability systems do not adequately measure the efficiency and effectiveness of special education programs in a cost-effective manner; and

(g) Local school boards should retain responsibility for the content of instructional programs within the broad program framework developed under section ~~79-3368~~ 863 of this act.

(2) It is the intent of the Legislature to establish a process for (a) developing a clear understanding of the range of services required by law to meet the educational needs of children with disabilities, (b) assuring that the intent of rules and regulations are carried out in the most cost-efficient manner, and (c) establishing an effective and meaningful system of program standards and evaluation of student outcomes.

Sec. 795. Section 79-3303, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3303.~~ As used in For purposes of the Special Education Act, unless the context otherwise requires, the definitions found in sections ~~79-3304 to 79-3314~~ 796 to 807 of this act shall be used.

Sec. 796. Section 79-3304, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3304.~~ Adjusted average per pupil cost of the preceding year shall mean means the amount computed by dividing the total instructional expenditure, excluding special education expenditures, by the preceding year's average daily membership as reported in the annual financial report. The costs of sectarian instruction shall not be included in determining the adjusted average per pupil cost of the preceding year, and the computation

shall be subject to an audit by appropriate state agencies.

Sec. 797. Section 79-3305, Reissue Revised Statutes of Nebraska, is amended to read:

79-3305. Allowable costs shall mean means salaries, wages, benefits, and maintenance, supplies, travel, and other expenses essential to carry out the provisions for special education.

Sec. 798. Section 79-3306, Reissue Revised Statutes of Nebraska, is amended to read:

79-3306. Average per pupil cost of the servicing agency shall mean means the amount computed by dividing the total operating expenditure of the preceding year, excluding the cost of sectarian instruction, of the servicing agency by its preceding year's average daily membership.

Sec. 799. Section 79-3306.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-3306.01. Child with a disability shall mean means a handicapped child.

Sec. 800. Section 79-3307, Reissue Revised Statutes of Nebraska, is amended to read:

79-3307. Diagnosis shall mean means those procedures carried out by professionally certified or licensed personnel but shall does not include those activities which involve screening and analysis of student populations prior to the provision of diagnostic services by professionally certified or licensed personnel.

Sec. 801. Section 79-3308, Reissue Revised Statutes of Nebraska, is amended to read:

79-3308. Excess cost shall mean means the difference between the total cost of the special education program excluding residential care and the number of students in the special education program multiplied by the adjusted average per pupil cost of the preceding year for the resident school district school district of residence of each child.

Sec. 802. Section 79-3309, Reissue Revised Statutes of Nebraska, is amended to read:

79-3309. Handicapped child shall mean means a child who is classified as mentally retarded, hard of hearing, deaf, speech and language impaired, visually handicapped, behaviorally disordered, orthopedically impaired, other health impaired, deaf-blind, or multihandicapped or has specific learning disabilities or a child with traumatic brain injury or autism and who, because of such impairments, needs special education and related services. For purposes of this section:

(1) Autism shall mean means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism shall does not apply if a child's educational performance is adversely affected primarily because the child has a serious emotional disturbance;

(2) Behaviorally disordered child shall mean means a child with a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree which adversely affects educational performance:

(a) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(c) Inappropriate types of behavior or feelings under normal circumstances;

(d) A general pervasive mood of unhappiness or depression; or

(e) A tendency to develop physical symptoms or fears associated with personal or school problems.

The term shall include Behaviorally disordered child includes a child who is schizophrenic but shall does not include a child who is socially maladjusted unless such child exhibits characteristics defined in subdivision (a) or (b) of this subdivision;

(3) Deaf shall mean means a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance;

(4) Deaf-blind shall mean means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that such impairments cannot be

accommodated in special education programs solely for deaf or blind children;

(5) Hard of hearing ~~shall mean means~~ a hearing impairment, whether permanent or fluctuating, which adversely affects educational performance but is not included under the term deaf in subdivision (3) of this section;

(6) Mentally retarded child ~~shall mean means~~ a child who has a significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period which adversely affects the child's educational performance;

(7) Multihandicapped child ~~shall mean means~~ a child who has concomitant impairments, such as mentally retarded-blind or mentally retarded-orthopedically impaired, the combination of which causes such severe educational problems that such child cannot be accommodated in special education programs for one of the impairments. ~~The term shall~~ Multihandicapped child does not include deaf-blind children;

(8) Orthopedically impaired child ~~shall mean means~~ a child who has a severe orthopedic impairment which adversely affects such child's educational performance. Severe orthopedic impairments ~~shall include include~~ impairments caused by (a) congenital anomaly, including, but not limited to, clubfoot or absence of a member, (b) disease, including, but not limited to, poliomyelitis or bone tuberculosis, or (c) other causes, including, but not limited to, cerebral palsy, amputations, and fractures and burns which cause contractures;

(9) Other health impaired child ~~shall mean means~~ a child having limited strength, vitality, or alertness due to chronic or acute health problems, including, but not limited to, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance;

(10) Specific learning disability ~~shall mean means~~ a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. ~~Such term shall include, but not be~~ Specific learning disability includes, but is not limited to, perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia;

(11) Speech-and-language-impaired child ~~shall mean means~~ a child with a communication disorder such as stuttering, impaired articulation, language impairments, or voice impairment which adversely affects the child's educational performance;

(12) Traumatic brain injury ~~shall mean means~~ an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. ~~The term shall apply~~ Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury shall does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma; and

(13) Visually handicapped child ~~shall mean means~~ a partially seeing or blind child whose visual impairment, even with correction, adversely affects the child's educational performance.

The State Department of Education ~~shall be authorized to~~ may group or subdivide the classifications of handicapped children for the purpose of program description and reporting.

Sec. 803. Section 79-3310, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3310-~~ Related services ~~shall mean means~~ transportation services and such developmental, corrective, and other supportive services, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, as may be required to assist a handicapped child to benefit from special education and ~~shall include includes~~ the early identification and assessment of handicapping conditions in children. Medical services shall be for diagnostic and evaluation purposes only.

Sec. 804. Section 79-3312, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3312-~~ Residential care ~~shall mean means~~ food and lodging and any other related expenses which are not a part of the education program, but ~~such care shall residential care does~~ not include expenditures for medical or dental services. Expenditures for medical and dental services shall be the

responsibility of the parent or legal guardian.

Sec. 805. Section 79-3311, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3311-~~ Residence of a child shall mean the legal residence of School district of residence means the school district in which the parent or legal guardian of a child with a disability maintains legal residence.

Sec. 806. Section 79-3313, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3313-~~ Servicing agency shall mean means the school district, educational service unit, local or regional office of mental retardation, or some combination thereof or such other agency as may provide a special education program approved by the State Department of Education, including an institution not wholly owned or controlled by the state or any political subdivision to the extent that it provides educational or other services for the benefit of children from the age of five to the age of twenty-one years who are handicapped, as such term is from time to time defined by the Legislature, if such services are nonsectarian in nature.

Sec. 807. Section 79-3314, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3314-~~ Special education shall mean means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

Sec. 808. Section 79-3315, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3315-~~ The Special Education Act shall apply applies to a child from the date of diagnosis or the date of notification of the resident school district school district of residence to age twenty-one and, if the child's twenty-first birthday occurs during a school year, until the end of that school year. All provisions of state law related to special education which apply to a child who is age twenty shall apply to a child whose twenty-first birthday occurs during a school year until the end of that school year. The State Department of Education; Division of Vocational Rehabilitation, of the State Department of Education shall, in compliance with federal guidelines, assume responsibility for the training of those individuals whose education or training is terminated and for whom additional supportive services are required.

Sec. 809. Section 79-3320, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3320-~~ It shall be the duty of the The board of education of every school district to shall provide or contract for special education programs and transportation for all resident children who would benefit from such programs.

Sec. 810. Section 79-3321, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3321-~~ The special education programs required by section 809 of this act may be provided by any school district, by contracting with another school district or servicing agency, or by some combination of school districts, an educational service unit, combination of educational service units, the local or regional office of mental retardation, any program approved by the State of Nebraska, or any combination thereof, except that only nonsectarian services shall be considered for approval by the State of Nebraska. Any office of mental retardation program receiving funds under the Special Education Act shall not use such funds to match state funds under the provisions of other programs. The members of the school board or board of education of any school districts district not offering continuous special education programs acceptable to the State Board of Education shall be in violation of the law. No state funds shall be paid to any school district as long as such violation exists, but no deduction shall be made from any funds required by the Constitution of the State of Nebraska to be paid to such district. On December 31 of each year, the Commissioner of Education shall present to the State Board of Education, the Attorney General, the Department of Administrative Services, the State Treasurer, and the Executive Board of the Legislative Council a list of all school districts not providing or contracting for approved programs.

Sec. 811. Section 79-3322, Revised Statutes Supplement, 1995, is amended to read:

~~79-3322-~~ (1) The school board or board of education shall provide one of the following types of services to the handicapped children who are residents of the school district:

(a) Provide for the transportation expenses for handicapped children who are forced to leave the school district temporarily because of lack of

educational services. A parent or guardian transporting such child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one handicapped child in his or her custody or control enrolled in programs at the same location, the amount of payments to such parent or guardian shall be based upon the transportation of one child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;

(b) Provide for the transportation expenses within the school district of any handicapped child who is enrolled in a special educational program of the district when either (i) the child is required to attend a facility other than what would be the normal school or attendance facility of the child to receive appropriate special educational services or (ii) the nature of the child's handicapping condition is such that special transportation is required. A parent or guardian transporting such child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one child in his or her custody or control enrolled in programs at the same location, the amount of payments to such parent or guardian shall be based upon the transportation of one child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;

(c) Provide visiting teachers for homebound handicapped children, which teachers shall be certified and qualified in the same manner as required for other teachers in Nebraska;

(d) Provide correspondence instruction approved by the Commissioner of Education; or

(e) Provide any other method of instruction approved by the Commissioner of Education.

(2) When a handicapped child resides in or attends a preschool or child care program in a school district other than the school district of residence of his or her parents or guardian, the nonresident school district may, upon mutual agreement with the resident school district of residence, provide for the transportation expenses of the child.

Sec. 812. Section 79-3323, Reissue Revised Statutes of Nebraska, is amended to read:

79-3323- (1) It is the intent of the Legislature that transportation services for handicapped children prescribed in section 79-3322 811 of this act shall be provided in the most cost-efficient manner consistent with the goal of providing free appropriate special education to all such children. The Legislature finds that educational service units and special education cooperatives created by school districts and recognized by the State Department of Education are in a unique position to improve the coordination and efficiency of transportation services in all areas of the state. It is the intent of the Legislature to authorize and encourage school districts, educational service units, and special education cooperatives to jointly plan, coordinate, and, where feasible, provide transportation services for handicapped children. The State Department of Education shall review and approve, approve with modifications, or disapprove all transportation applications to ensure the implementation of the most cost-efficient transportation system, consistent with the goal of providing free appropriate special education to all children.

(2) School districts, educational service units, and special education cooperatives created by school districts and recognized by the State Department of Education are hereby authorized to jointly plan, coordinate, and, where feasible, provide special education transportation services prescribed in section 79-3322 811 of this act. Any educational service unit or special education cooperative may enter into a cooperative arrangement with a school board or board of education of a school district for the provision of such transportation services. Such arrangement shall be approved by the State Department of Education, and upon approval of the arrangement, the educational service unit or special education cooperative providing the transportation services shall be eligible to receive direct reimbursement for such services pursuant to section 79-3333 826 of this act.

Sec. 813. Section 79-3324, Reissue Revised Statutes of Nebraska, is amended to read:

79-3324- Participation in or attendance at programs by handicapped children less than five years of age shall be voluntary as specified by the parent or guardian. Programs serving children less than three years of age shall, to the greatest extent possible, be based upon providing parent

training in the home environment.

Sec. 814. Section 79-3325, Revised Statutes Supplement, 1995, is amended to read:

79-3325- The State Department of Education shall provide grants for the costs of the special education programs approved by the State Department of Education to the school district of residence for handicapped children of less than five years of age. Educational service units or cooperatives of school districts recognized as regional planning entities by the State Board of Education pursuant to section 79-3328 817 of this act shall be eligible to receive grants for cooperative programs for such handicapped children of less than five years of age if such educational service units or cooperatives have complied with the reporting and approval requirements of section 79-3328 such section. The grants shall be one hundred percent of the costs of such programs and shall continue to be one hundred percent as long as the funding for such grants comes from federal funds. For special education programs and transportation provided in fiscal year 1994-95, if the federal funding pursuant to the federal Individuals with Disabilities Education Act, Part B and section 619 flow-through funds is inadequate at any time to pay one hundred percent of the costs of such programs and transportation, the amount of the grant provided by the department shall be ninety percent of such costs which amount shall be made up of federal flow-through funds plus state general funds to be appropriated by the Legislature if necessary. For special education programs and transportation provided to handicapped children below age five in fiscal year 1995-96 and each fiscal year thereafter, if federal funding pursuant to the federal Individuals with Disabilities Education Act, Part B and section 619 flow-through funds is inadequate at any time to pay one hundred percent of the allowable costs of such programs and transportation, the amount of the grant payments provided by the department shall be a pro rata amount as determined by the State Board of Education from appropriations for special education approved by the Legislature and based on such allowable costs for all special education programs and transportation to handicapped children below age five. The grant payments shall be made by the State Department of Education to the resident school district of residence, educational service unit, or regional planning entity recognized by the State Board of Education pursuant to section 79-3328 817 of this act each year in seven as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning in December.

Sec. 815. Section 79-3326, Reissue Revised Statutes of Nebraska, is amended to read:

79-3326- Each school district shall pay an amount equal to the average per pupil cost of the servicing agency of the preceding year or the cost as agreed upon pursuant to the contract to the agency providing the educational program for every handicapped student of less than five years of age who is a resident of the district and attending an educational program not operated by the school district, including programs operated by the State Department of Education, the Department of Public Institutions, and any other servicing agency whose programs are approved by the State Department of Education.

Sec. 816. Section 79-3327, Reissue Revised Statutes of Nebraska, is amended to read:

79-3327- The State Department of Education shall develop and maintain search and reporting systems which assist in the early identification and provision of educational services to handicapped children. Such system shall be operated in consultation and cooperation with public and nonpublic agencies, institutions of higher postsecondary education, public and nonpublic schools, educational service units, and medical and mental health professionals. A report describing the number and type of students children of less than five years of age served, the kinds of services provided, and the agencies providing the services shall be presented on December 31 of each year by the Commissioner of Education to the State Board of Education, the Department of Administrative Services, and the Executive Board of the Legislative Council. Such report shall:

- (1) Specifically set forth the status of qualifications of program personnel in relation to the standards;
- (2) Include an inventory of training program capacity at each institution of higher education; and
- (3) Describe the method employed by each institution of higher education to accommodate the previous experience and education of candidates for training.

Sec. 817. Section 79-3328, Reissue Revised Statutes of Nebraska, is amended to read:

79-3328- Each school district shall demonstrate participation in a

plan of services for handicapped children of less than five years of age. Such plans shall be prepared on a regional basis as determined by the State Department of Education and updated annually. The contents of the plans shall include, but not be limited to:

- (1) A listing of the programs existing during the initial planning period and the personnel involved and their qualifications;
- (2) A census by name, resident school district of residence, and handicapping condition of all children less than five years of age;
- (3) A procedure for identification and referral of handicapped children;
- (4) An agreement setting forth the responsibilities and level of participation of each servicing agency within the region; and
- (5) Budgets for the proposed program.

Plans for program expansions, revisions, and reductions and budget information on programs for handicapped children of less than five years of age shall be reported annually on dates specified by the State Department of Education. The content of such plans and the required budget information shall be prescribed by the department.

The State Board of Education shall annually approve, approve with modifications, or disapprove the requests for program expansions. Supplementary amendments to any program plans and budgets previously approved by the State Board of Education may be submitted on dates specified by the department during the same school year and shall be subject to the same review as the initial plans and budgets.

Sec. 818. Section 79-3329, Reissue Revised Statutes of Nebraska, is amended to read:

79-3329. The provisions of sections 79-3315 and 79-3324 to 79-3329 shall not be construed to 808 and 813 to 818 of this act do not prevent funding from sources other than the public schools for the program for handicapped children of less than five years of age.

Sec. 819. Section 79-3316, Reissue Revised Statutes of Nebraska, is amended to read:

79-3316. The Legislature hereby finds and declares that there is a need to establish a process and criteria to assess, identify, and verify children who may require special education. Research-based criteria and a rational process for the assessment of children who may require special education will lead to greater equity, consistency, and efficiency in the identification of and the provision of services to such handicapped children. It is the intent of the Legislature that all children who require special education services shall be identified and verified pursuant to such criteria and process.

Sec. 820. Section 79-3317, Reissue Revised Statutes of Nebraska, is amended to read:

79-3317. The State Board of Education shall adopt and promulgate rules and regulations to be effective after August 1, 1987, establishing criteria for the assessment, identification, and verification of all handicapping conditions defined in section 79-3309 802 of this act to the extent that such handicapping conditions are consistent with federal law and regulation. The rules and regulations shall include provisions for the maximum possible utilization of regular education programs and personnel for applicants whose learning problems do not meet the criteria established for the identification and verification of handicapped children.

Sec. 821. Section 79-3318, Reissue Revised Statutes of Nebraska, is amended to read:

79-3318. Each school district shall include only students identified and verified pursuant to sections 79-3316 and 79-3317 819 and 820 of this act in special education programs and shall not provide special education services pursuant to the Special Education Act to any child who has not been so identified and verified, except that the verification requirements established by rules and regulations adopted and promulgated by the State Board of Education shall not apply to students who have been included in special education programs pursuant to the special education statutes and rules and regulations adopted and promulgated pursuant thereto in effect immediately prior to July 17, 1986, until such time as such children are required to be reverified for special education.

Sec. 822. Section 79-3330, Reissue Revised Statutes of Nebraska, is amended to read:

79-3330. Except as provided in section 79-3331 and sections 79-3401 to 79-3417 sections 36 to 51 and 823 of this act, each school district shall pay an amount equal to the average per pupil cost of the servicing agency of the preceding year or the cost as agreed upon pursuant to the contract to the agency providing the educational program for every child who is a resident of

the district and attending an educational program not operated by the school district, including programs operated by the State Department of Education, the Department of Public Institutions, and any other servicing agency whose programs are approved by the State Department of Education.

Sec. 823. Section 79-3331, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3331-~~ The school district of residence of each student who attends the Nebraska School for the Visually Handicapped or the Nebraska School for the Deaf shall pay an amount equal to the school district's adjusted average per pupil cost of the preceding year plus ten percent of the allowable excess cost. The remainder of the cost for each student shall be accounted for in the budget for the Nebraska School for the Visually Handicapped or the Nebraska School for the Deaf.

Sec. 824. Section 79-3332, Revised Statutes Supplement, 1995, is amended to read:

~~79-3332-~~ (1) For special education programs provided in fiscal year 1994-95, the State Department of Education shall reimburse each school district, in fiscal year 1995-96, an amount equal to ninety percent of allowable excess cost for all special education programs other than Level I services. The amount appropriated by the Legislature for Level I services shall consist of the amount of the preceding year's Level I services appropriation plus fifty percent of the increase in the ninety percent allowable excess cost in Level I services for the average of the two immediately preceding years, except that the amount to be reimbursed by the State Department of Education for Level I services shall not be less than eighty percent of allowable excess costs. The proportionate share for each school district for Level I services shall be based on the final expenditure report of ninety percent of the allowable excess cost for Level I services for the immediately preceding year's special education program.

Level I services ~~shall refer~~ refers to services provided to students who require an aggregate of not more than three hours per week of special education services and ~~shall include~~ includes all administrative, diagnostic, consultative, and vocational-adjustment counselor services.

(2) For special education programs provided in fiscal year 1995-96 and each fiscal year thereafter, the State Department of Education shall reimburse each school district in the following fiscal year a pro rata amount determined by the State Board of Education from appropriations for special education approved by the Legislature and based on allowable excess costs for all special education programs.

(3) Cooperatives of school districts or educational service units shall also be eligible for reimbursement for cooperative programs pursuant to this section if such cooperatives or educational service units have complied with the reporting and approval requirements of section 79-3343 837 of this act for cooperative programs which were offered the preceding year. The payments shall be made by the State Department of Education to the resident school district of residence, cooperative of school districts, or educational service unit each year in seven, as nearly as possible, equal monthly payments between the fifth and twentieth day of each month beginning in December. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The director shall, upon receiving such certification, draw warrants against funds appropriated.

Sec. 825. Section 79-3332.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3332.01-~~ The fiscal year for all programs reimbursed pursuant to the Special Education Act shall begin on September 1 of each year and end on August 31 of the following year. Funds appropriated for any period ending on June 30 of a given year for actual transportation expenses for handicapped children pursuant to section 79-3322 811 of this act may be spent or obligated through August 31 of that year for such purpose.

Sec. 826. Section 79-3333, Revised Statutes Supplement, 1995, is amended to read:

~~79-3333-~~ Funds shall be appropriated by the Legislature to carry out sections ~~79-3331 to 79-3333 and 79-3335~~ 823 to 826 and 829 of this act. Such funds shall be channeled through the office of the State Department of Education. The department ~~shall be~~ is authorized to expend such funds upon proper vouchers approved by the department and warrants issued by the Director of Administrative Services for financial reimbursement to ~~local~~ school districts, educational service units, special education cooperatives created by school districts, agencies, and parents or guardians, including (1) reimbursement (a) for ninety percent of the amount expended prior to the 1995-96 fiscal year 1995-96 pursuant to section 79-3322 811 of this act for

actual transportation expenses per year for handicapped children and children with mental retardation and (b) for the amount expended for fiscal year 1995-96 and each fiscal year thereafter pursuant to section 79-3322 811 of this act for actual transportation expenses per year for handicapped children a pro rata amount which shall be determined by the State Board of Education from appropriations for special education approved by the Legislature based on all actual allowable transportation costs, (2) reimbursement for instructional aids and consultative, supervisory, research, and testing services to ~~each~~ school districts, and (3) reimbursement for salaries, wages, maintenance, supplies, travel, and other expenses essential to carrying out the provisions for special education programs. Minor building modifications shall not be eligible for state reimbursement as an allowable expense beginning with the reimbursement provided in fiscal year 1993-94 except for those projects or portions thereof completed prior to August 31, 1992, and paid for by the school district on or before December 31, 1992. Documentation of projects or portions thereof completed during the 1991-92 school year shall be provided to the State Department of Education. Applications for state reimbursement for actual transportation expenses shall be submitted to the department annually on a date and on forms prescribed by the department. Amendments to applications for actual transportation expenses shall be submitted on dates prescribed by the department during the school year in which the original application was made.

Sec. 827. Section 79-3333.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-3333.01-~~ For fiscal year 1996-97, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-3325, 79-3332, and 79-3333 814, 824, and 826 of this act shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections in fiscal year 1995-96 multiplied by one plus a rate of two and one-half percent, excluding any deficiency appropriations in fiscal year 1995-96. Beginning in fiscal year 1997-98 and each fiscal year thereafter, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-3322, ~~79-3325, and 79-3333~~ 811, 814, and 826 of this act shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, multiplied by one plus a rate of three percent.

Sec. 828. Section 79-3334, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3334-~~ The school district or educational service unit which received such funds as provided in section 79-3333 826 of this act may contract with another school district, educational service unit, state school, or public agency.

Sec. 829. Section 79-3335, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3335-~~ Whenever a child must temporarily reside in a residential facility, boarding home, or foster home in order to receive an appropriate special education program, the State of Nebraska shall provide for the ordinary and reasonable cost of the residential care during the duration of the special education program. The state shall not be required to pay such cost unless placement of the child in a special education program requiring residential care was made by the ~~resident~~ school district of residence with the prior approval of the State Department of Education or was made pursuant to sections ~~79-3349 to 79-3354~~ 844 to 849 of this act.

Sec. 830. Section 79-3337, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3337-~~ The State Department of Education is hereby authorized to set up one or more approved schools for handicapped children. These schools shall offer residential facilities for handicapped children, which facilities shall be under the control and supervision of the State Department of Education.

Sec. 831. Section 79-3338, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3338-~~ The admission, as provided by section 79-3337 830 of this act, shall be by rules and regulations to be adopted, promulgated, and administered by the State Department of Education.

Sec. 832. Section 79-3339, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3339-~~ All money derived from any source other than General Fund appropriations by any school as provided by sections 79-3337 and 79-3338 830 and 831 of this act shall be remitted to the state treasury and by the State Treasurer credited for credit to the State Department of Education Cash Fund, and such money shall be made available to any such school for purposes of

education, training, or maintenance of students.

Sec. 833. An emergency cash fund shall be established on behalf of any school as provided for by sections 830 and 831 of this act. The fund shall not exceed five hundred dollars. Such emergency cash fund shall be used to provide for immediate and unusual needs as may be required and shall be reimbursed from the General Fund appropriation of each such school.

Sec. 834. Section 79-3341, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3341-~~ No school district shall make a placement in a special education program requiring residential care without advance consultation with the State Department of Education to review the child's needs and the availability and appropriateness of each possible placement in the continuum of alternative services. Applications for approval of special education program placements requiring residential care shall be signed by the parent or legal guardian, submitted via the school district of which the child is a resident residence of the child to the State Department of Education, and acted upon by the department within thirty days of after receipt by the department. If an application is denied, the parent or legal guardian shall be provided written notification by the State Department of Education of his or her right to appeal the decision pursuant to sections 79-3349 to 79-3354 ~~844 to 849 of this act~~ and right to name the State Department of Education as respondent in the appeal proceeding.

The State Department of Education and the Department of Social Services shall annually establish the maximum rates that the state will pay for the ordinary and reasonable cost of residential care placements within the state. After September 6, 1985, children whose residential placement was funded by state and regional agencies other than the State Department of Education shall continue to be funded by such agencies.

Sec. 835. Section 79-3342, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3342-~~ Following residential placement, the local school district of residence and the State Department of Education shall continue efforts to develop appropriate programs closer to the handicapped student's child's home and shall cooperate with the Department of Social Services in preparing families to accommodate returning students children. The Department of Social Services shall provide consultative services, as defined by mutual agreement between the State Department of Education and the Department of Social Services, to the children and families initially provided residential care.

Sec. 836. Section 79-3340, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3340-~~ The State Board of Education shall review special training and educational programs offered by or in conjunction with any public school district, combination of public school districts, educational service unit, or combination of educational service units subject to the following:

- (1) Each teacher in any such special program shall be qualified;
- (2) Teacher aides, working with any such program, shall have such qualifications as the governing body of the school shall prescribe and shall participate in appropriate inservice activities; and
- (3) Each qualified teacher shall be responsible for the direct supervision of teacher aides, whose duties shall be limited to those prescribed in section 79-1233 432 of this act.

As used in For purposes of this section, qualified teacher shall mean means an individual holding a valid State of Nebraska teaching or special services certificate with an endorsement appropriate to the handicaps served. If such teacher is serving children with more than one handicap, qualified teacher shall mean means an individual holding a valid State of Nebraska teaching or special services certificate with an endorsement in at least one of the handicaps served.

Sec. 837. Section 79-3343, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3343-~~ All school boards and boards of education shall report annually on a date prescribed by the State Department of Education to the department on forms provided by the department (1) plans for special education program expansions, revisions, or reductions and (2) budget information for special education programs. Cooperatives of school districts or educational service units applying for grants or reimbursement for programs pursuant to section 79-3325, 79-3332, or 79-3333 814, 824, or 826 of this act shall also report unified plans and budget information pursuant to this section. The plans and budget forms shall conform to guidelines provided in section 79-3344 838 of this act. The State Department of Education shall review and take action to approve, approve with modifications, or disapprove the plans for expansions in special education programs of the school district, cooperative

of school districts, or educational service unit. Supplementary amendments to any program plans and budgets previously approved by the State Board of Education may be submitted on dates specified by the department during the same school year and shall be subject to the same review and approval as the initial plans and budgets. The State Board of Education shall approve, approve with modifications, or disapprove all supplementary amendments to program plans and budget requests. All final financial reports on special education costs, the actual number of children served, and the handicapping conditions of such children shall be reported to the State Department of Education by October 31 of each year for the preceding school year on forms prescribed by the State Department of Education. Any program that provides residential care shall show the costs of such care separately from the costs of the education program.

If a servicing agency chooses to exceed the budget approved by the State Department of Education, costs in excess of the approved budget shall not be reimbursed by the State Department of Education.

Sec. 838. Section 79-3344, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3344.~~ The State Department of Education shall coordinate information reporting requirements for special education programs with other educational data reporting requirements of the department to the extent possible. The plans for program expansions, revisions, and reductions shall contain the information required by the department. The information on special education programs shall include the following:

- (1) A description of the types of services to be offered and the number of students receiving the services;
- (2) The servicing agencies and the respective services offered;
- (3) A presentation of all expected expenditures by source of funds;
- (4) A detailed description of the methodology to be used by the agency for evaluating the results of the programs and service being provided for each service group. This methodology shall permit program evaluation, including the relative cost and effectiveness of alternative forms and patterns of services;

- (5) A description of the procedures used to insure that students are placed in appropriate educational programs. Such procedures shall be reviewed for approval by the State Department of Education; and

- (6) A sample of the written materials to be used to provide parents with specific information about complaint and appeal rights and procedures.

Sec. 839. Section 79-3345, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3345.~~ All special education programs shall be reviewed at least once every three years by the State Department of Education.

To enable the State Department of Education to determine the effectiveness of the programs and services being provided, the department shall conduct a program of continuing evaluations of the different types of programs and services being provided for each of the service groups. In conducting these evaluations, the department shall take into account such factors as numbers and types of students, class sizes, qualifications of staff, and other factors which the department deems appropriate. The department shall conduct evaluations of all programs and services and shall conduct these evaluations in such a manner as to enable the department to compare the relative effectiveness of the same or similar programs or services provided in different locations.

Evaluation studies shall be designed to provide the Legislature, the State Department of Education, the school districts, and other servicing agencies with the following information:

- (1) A detailed description of groups served;
- (2) A detailed description of the kind of programs or services provided and their cost per unit of service as well as the cost of each service; and
- (3) A detailed description of the effectiveness of the programs or services.

Sec. 840. Section 79-3346, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3346.~~ No reimbursement for special education programs shall be allowed unless the program meets the standards established by the State Department of Education.

Sec. 841. Section 79-3347, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3347.~~ The State Department of Education, upon the request of any school district, shall provide technical assistance in the promulgation of any plan, program, or report required by the Special Education Act. Such

assistance shall be given only in an advisory capacity and shall not be designed or construed to transfer, either in whole or in part, the responsibility for or actual development or implementation of such plan, program, or report.

Sec. 842. Section 79-3348, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3348.~~ The State Department of Education shall adopt, promulgate, and publish such rules and regulations as shall be necessary to carry out the Special Education Act. Such rules and regulations shall include, but not be limited to, the regulation of costs under section 79-3341; ~~834 of this act~~, limitation of the program to handicapped children who require residential care in order to receive an appropriate special education program, and provisions for contracts with the Department of Social Services to assist in the administration of the act.

Sec. 843. Section 79-4,147, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,147.~~ (1) A surrogate parent shall be appointed by a school district to protect the rights of a handicapped child if the district determines that (a) the parents of the child cannot be identified, (b) the parents of the child are unknown or unavailable, or (c) the child is a ward of the state.

(2) The surrogate parent shall (a) have no interest which conflicts with the interest of the child, (b) have knowledge and skills that insure adequate representation, and (c) not be an employee of any agency involved in the care or education of the child. The surrogate parent appointed under this section may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child.

(3) The services of the surrogate parent shall be terminated when (a) the child is no longer eligible under subsection (1) of this section, (b) a conflict of interest develops between the interest of the child and the interest of the surrogate parent, or (c) the surrogate parent fails to fulfill his or her duties as a surrogate parent. Issues arising from the selection, appointment, or removal of a surrogate parent shall be resolved through hearings established under sections 79-3349 to 79-3354 ~~844 to 849 of this act~~. The surrogate parent and the school district which appointed the surrogate parent shall not be liable in civil actions for damages for acts of the surrogate parent unless such acts constitute willful and wanton misconduct.

~~(4) The State Department of Education shall adopt and promulgate rules and regulations necessary to carry out the provisions of this section.~~

Sec. 844. Section 79-3349, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3349.~~ A parent, guardian, competent student of ~~the~~ age of majority, or school district may initiate a hearing on matters related to the initiation, change, or termination or the refusal to initiate, change, or terminate the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education or records relating thereto. A copy of the procedures specified in rules and regulations of the State Department of Education for complaints and hearings under this section shall be provided by school districts to all parents and guardians of handicapped children who are receiving services on September 6, 1985, and, thereafter, to all parents and guardians of handicapped children upon initial consideration of the provision of services for their handicapped children. Such hearing shall be initiated by filing a petition with the State Department of Education. A parent, guardian, or competent student of the age of majority shall not be entitled to reimbursement for any expenses incurred more than sixty days prior to the filing of the petition.

Sec. 845. Section 79-3350, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3350.~~ The State Department of Education shall conduct hearings initiated under section 79-3349 ~~844 of this act~~ using hearing officers. The State Department of Education may employ, retain, or approve such qualified hearing officers as are necessary to conduct hearings provided by sections 79-3341 and 79-3349 to 79-3354 ~~834 and 844 to 849 of this act~~. The hearing officers shall not be persons who are employees or officers of a state or local public agency which is involved in the education or care of the child. A person who otherwise qualifies to conduct a hearing under ~~such~~ sections 79-3341 and 79-3349 to 79-3354 is not an employee of the agency solely because the person is paid by the agency to serve as a hearing officer. No hearing officer shall participate in any way in any hearing or matter in which the hearing officer may have a conflict of interest. Hearing officers appointed and assigned by the State Department of Education shall have exclusive

original jurisdiction over cases arising under such sections 79-3341 and 79-3349 to 79-3354, and in no event shall juvenile courts have jurisdiction over such matters.

Sec. 846. Section 79-3351, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3351-~~ Upon the receipt of a petition filed under section 844 of this act, the State Department of Education shall assign it to a hearing officer. The hearing officer shall receive all subsequent pleadings and shall conduct the hearing. At the hearing the parties shall present evidence on the issues raised in the pleadings. At the completion of the proceedings, the hearing officer shall prepare a report based on the evidence presented containing findings of fact and conclusions of law. Within forty-five days after the receipt of a request for a hearing, the hearing officer shall prepare a final decision and order directing such action as may be necessary. At the request of either party for good cause shown, the hearing officer may grant specific extensions of time beyond this period. The report and the final decision and order shall be delivered via certified mail to each party or attorney of record and to the Commissioner of Education.

Sec. 847. Section 79-3352, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3352-~~ Any party at a hearing conducted under section 79-3350 sections 845 and 846 of this act shall have the right to:

- (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children;
  - (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;
  - (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;
  - (4) Obtain a written or electronic verbatim record of the hearing;
- and
- (5) Obtain written findings of fact and decisions.

The hearing officer may also produce evidence on the officer's own motion.

Sec. 848. Section 79-3353, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3353-~~ The hearing officer ~~shall have~~ has the power by subpoena to compel the appearance of witnesses and the production of any relevant evidence. Any witness compelled to attend or produce evidence shall be entitled to the fees and expenses allowed in district court. Any failure to respond to such subpoena shall be certified by the hearing officer to the district court of Lancaster County for enforcement or for punishment for contempt of the district court.

Sec. 849. Section 79-3354, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3354-~~ (1) Any party aggrieved by the findings, conclusions, or final decision and order of the hearing officer shall be entitled to judicial review under this section. Any party of record also may seek enforcement of the final decision and order of the hearing officer pursuant to this section.

(2) Proceedings for judicial review shall be instituted by filing a petition in the district court of the county where in which the main administrative offices of the school district are located within thirty days after service of the final decision and order on the party seeking such review. All parties of record shall be made parties to the proceedings. The court, in its discretion, may permit other interested parties to intervene.

(3) The filing of a petition for judicial review shall operate to stay the enforcement of the final decision and order of the hearing officer. While judicial proceedings are pending and unless the school district and the parent or guardian otherwise agree, the child shall remain in his or her current educational placement or if applying for initial admission to a public school such child shall, with the consent of the parent or guardian, be placed in the public school program until all such proceedings have been completed. If the health or safety of the child or of other persons would be endangered by delaying a change in assignment, the school district may make such change without prejudice to the rights of any party.

(4) Within fifteen days after receiving notification that a petition for judicial review has been filed or if good cause is shown within such further time as the court may allow, the State Department of Education shall prepare and transmit to the court a certified transcript of the proceedings before the hearing officer.

(5) Judicial review shall be conducted by the court without a jury. The court shall receive the records of the administrative proceedings, hear

additional evidence at the request of a party, base its decision on the preponderance of the evidence, and grant such relief as the court determines is appropriate.

(6) An aggrieved party may secure a review of any final judgment of the district court under this section by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals in civil cases and shall be heard de novo on the record.

(7) When no petition for judicial review or other civil action is filed within thirty days after service of the final decision and order on all of the parties, the hearing officer's final decision and order shall become effective. Proceedings for enforcement of a hearing officer's final decision and order shall be instituted by filing a petition for appropriate relief in the district court of the county where in which the main administrative offices of the school district are located within one year after the date of the hearing officer's final decision and order.

Sec. 850. Section 79-3355, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3355-~~ As used in sections 79-3355 to 79-3365 For purposes of sections 850 to 860 of this act, unless the context otherwise requires:

(1) Board shall mean means the State Board of Education;

(2) Center or program shall mean the Diagnostic Resource Center at Cozad authorized by section 79-3356;

~~(3)~~ Diagnosis shall mean means:

(a) Systematic observation and assessment of a child in order to gather information on the child's functioning strengths, weaknesses, learning characteristics, and vocational potential;

(b) Preparation of individualized educational plans;

(c) Trial implementation of the individualized educational plans within the center program;

(d) Followup procedures to be conducted after a child has been placed in the local education program; and

(e) Development of a transitional plan as to coordination of services linking education and employment opportunities; and

~~(4)~~ (3) Handicapping conditions shall mean means those conditions defined or provided for in section 79-3309 802 of this act; and

(4) Program means the program authorized by section 851 of this act.

Sec. 851. Section 79-3356, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3356-~~ The board is authorized to may establish, within the State Department of Education, a program to be known as the Diagnostic Resource Center at Cozad.

Sec. 852. Section 79-3357, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3357-~~ The purposes of the program shall include:

(1) Diagnosis of educational handicapping conditions of children to age twenty-one years;

(2) Training services for special education teachers and others;

(3) Research into the improvement of educational services for handicapped children;

(4) Utilization of diagnostic services on a contractual basis with other state agencies; and

(5) Coordinated delivery of the services available within the State Department of Education for handicapped individuals.

Sec. 853. Section 79-3358, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3358-~~ Admission to the program shall be open to all Nebraska children who are in need of diagnostic services. The State Department of Education shall, in consultation with appropriate state agencies, approve criteria, priorities, and procedures for admission to insure the most efficient and effective use of facilities, staff, and financial resources. The board may set rates for diagnostic services to be paid by the school districts of residence for the school-age children receiving such services or by state agencies.

Sec. 854. Section 79-3359, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3359-~~ The board shall establish criteria, priorities, and procedures under which nonresident children may be admitted to the program. ~~No~~ A nonresident child shall not be granted admission if such admission would result in denial of services to any eligible Nebraska resident ~~nor~~ and shall not be granted admission unless satisfactory arrangements have been made for payment of all costs for services at a rate fixed by the board.

Sec. 855. Section 79-3360, Reissue Revised Statutes of Nebraska, is

amended to read:

~~79-3360-~~ No child shall remain in the residential care component of the program for longer than is necessary to complete appropriate diagnosis.

Sec. 856. Section 79-3361, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3361-~~ The parents or legal guardian shall furnish suitable clothing for any children admitted to the program.

Sec. 857. Section 79-3362, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3362-~~ The board shall appoint and fix the compensation of a director who shall be the chief administrative officer of the program. The board shall also employ such additional personnel as shall be necessary and desirable to accomplish the purposes of the program.

Sec. 858. Section 79-3363, Revised Statutes Supplement, 1995, is amended to read:

~~79-3363-~~ There is hereby established in the state treasury a special fund to be known as the Diagnostic Resource Center Cash Fund which is created. The fund, when appropriated by the Legislature, shall be expended solely to aid in defraying the expenses of the center Diagnostic Resource Center at Cozad. All funds received by the center shall be credited to such fund. All money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 859. Section 79-3364, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3364-~~ The board shall have the power and it shall be its duty to accept, on behalf of the center Diagnostic Resource Center at Cozad, devise of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of ~~such school the center~~, its students, or both. The board shall, and upon acceptance of any devise, donation, or bequest as provided in this section, to administer and carry out any devise, donation, or bequest in accordance with its terms and conditions. If not prohibited by the terms and conditions of any devise, donation, or bequest, at the board may sell, convey, exchange, or lease such property as it deems best and deposit remit all money derived from any such sale or lease in to the State Treasurer for credit to the State Department of Education Trust Fund. However, lease agreements should give priority first to state agencies and second to regional or local agencies. In the case of lease agreements with regional or local agencies, such lease agreements shall not exceed a period of one year.

Sec. 860. Section 79-3365, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3365-~~ The State Department of Education and the Department of Social Services shall enter into a written agreement under which the State Department of Education shall furnish to the Department of Social Services evaluations, diagnoses, and treatment for children who are otherwise served by the Department of Social Services. The Department of Social Services shall, under the agreement, reimburse the State Department of Education for the costs of such services to children.

Sec. 861. Section 79-3366, Revised Statutes Supplement, 1995, is amended to read:

~~79-3366-~~ There is hereby created the The Special Education Accountability Commission is created. The commission shall consist of seventeen members as follows: One representative from the Governor's office, one public school classroom teacher not in special education, one public school special education teacher, two administrators or administrative staff members not involved in special education, two special education administrators or administrative staff members, two parents, one representative of postsecondary special education, one school district business manager, one school board member, one representative of private schools, and four representatives not directly related to the administration, delivery, or receipt of special education services. The members shall be appointed by the Governor with the consent of a majority of the Legislature upon the recommendations of associations and organizations representing parents, teachers, school administrators, and school board members. Members appointed before June 14, 1995, shall serve for one three-year term. Members appointed on or after June 14, 1995, shall serve terms which terminate on the date the terms of the three-year members terminate. A vacancy shall be filled by the Governor for the remainder of the term. Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 862. Section 79-3367, Reissue Revised Statutes of Nebraska, is

amended to read:

79-3367- The primary goal of the Special Education Accountability Commission shall be to identify strategies for accomplishing cost containment in special education that will result in average special education costs increasing at a rate no greater than the average annual education growth rate. Sec. 863. Section 79-3368, Revised Statutes Supplement, 1995, is amended to read:

79-3368- (1) The Special Education Accountability Commission shall develop an accountability system which adequately measures efficiency and effectiveness of special education programs in a cost-effective manner. The commission shall:

- (a) Review all applicable federal and state laws;
- (b) Examine the funding mechanism, address issues, and make recommendations relating to the mechanics for implementation of a funding system as described in section 79-347 869 of this act or in the alternative make recommendations for a funding system which will accomplish the goals stated by the Legislature in the findings contained in ~~section 79-347 such section~~. In making such recommendations the commission shall actively collaborate with the members and staff of the School Finance Review Committee, the State Department of Education, and the Education Committee of the Legislature;
- (c) Review any regulatory or procedural changes to determine compatibility with existing law, fiscal impact, and impact on student outcomes;
- (d) Review findings of previous committees which have conducted similar studies; and
- (e) Address issues and make recommendations for accountability measures for special education, including recommendations for (i) broad frameworks for special education program standards, (ii) a system for assessing student outcomes, and (iii) a system for management and monitoring of special education costs and their impact on total education costs. The commission shall also make recommendations for an accountability report which will describe the special education programs provided to students children with handicaps disabilities and the impacts of those programs in the education and posteducation performance of such students children. Such report shall be incorporated into the State Department of Education data systems and integrated with any accountability measures or student assessment system recommended by the Nebraska Schools Accountability Commission and implemented by the State Department of Education.

(2) The Special Education Accountability Commission shall select demonstration sites for the purpose of pilot implementation of program models which can document cost containment while maintaining appropriate special education programs to children with disabilities. Demonstration sites may continue for up to three school years and shall be exempt from the provisions of the Special Education Act but shall comply with the federal Individuals with Disabilities Education Act, as amended, 20 U.S.C. 1400 et seq. The State Board of Education may also waive the application of any provision in its rules and regulations adopted and promulgated under Chapter 79 when application of such provisions would directly limit the ability of the pilot program to accomplish its stated goals. The commission shall assist the State Department of Education in monitoring and evaluating each demonstration site to determine how such site would differ if it were not exempt from the Special Education Act and the rules and regulations adopted and promulgated under Chapter 79 and waived pursuant to this section.

(3) The commission shall report its activities and recommendations to the Education Committee of the Legislature, the Appropriations Committee of the Legislature, and the State Board of Education and shall make its final report on or before September 1, 1996. The initial recommendations for statutory or procedural changes in the funding mechanism shall be made on or before November 1, 1994. The second report shall include any recommendations regarding the implementation of a funding system as described in section 79-347 869 of this act and subsection (1) of this section and shall be due June 1, 1996. The final report shall include the commission's evaluation of pilot programs, recommended legislation to implement a funding system as described in section 79-347 869 of this act and subsection (1) of this section, and recommendations for accountability measures for special education programs.

Sec. 864. Section 79-3369, Reissue Revised Statutes of Nebraska, is amended to read:

79-3369- The Special Education Accountability Commission and the State Department of Education may work with other states to develop a conceptual and technical framework for examining alternative approaches to

funding of special education and developing systems of assessing student outcomes. The commission shall consult with the members of the School Finance Review Committee and the Nebraska Schools Accountability Commission to ensure compatibility of effort. The department shall provide staff support to the Special Education Accountability Commission in all phases.

Sec. 865. Section 79-3370, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3370.~~ The Special Education Accountability Commission shall terminate September 1, 1996.

Sec. 866. Section 79-3371, Revised Statutes Supplement, 1995, is amended to read:

~~79-3371.~~ Sections ~~79-3325, 79-3332, 79-3333, and 79-3335~~ 814, 824, 826, and 829 of this act terminate on August 31, 1998.

#### ARTICLE 11

#### PART (c) - SPECIAL EDUCATION

#### SUBPART (ii) - DEPARTMENT DUTIES

Sec. 867. Section 79-348, Revised Statutes Supplement, 1995, is amended to read:

~~79-348.~~ For purposes of sections ~~79-346 and 79-347~~ 868 and 869 of this act, support services ~~shall mean~~ means preventive services for those students not identified or verified as handicapped pursuant to section 79-3309 ~~and sections 79-3316 to 79-3318~~ 802 of this act and sections 819 to 821 of this act but demonstrating a need for specially designed assistance in order to benefit from the school district's general education curriculum and to avoid the need for potentially expensive special education placement and services.

Sec. 868. Section 79-346, Revised Statutes Supplement, 1995, is amended to read:

~~79-346.~~ The State Department of Education shall review existing rules and regulations relating to special education programs and support services as defined in sections ~~79-348 and 79-3314~~ 807 and 867 of this act. The State Board of Education shall report to the Education Committee of the Legislature by June 1, 1996, with recommendations for state laws, rules, and regulations that could be repealed, modified, or retained to reduce restrictions on school districts, educational service units, or approved cooperatives in the provision of special education programs and support services. The report shall also include the estimated fiscal impact of the recommendations of the State Board of Education. The State Department of Education shall strengthen their roles in facilitating the effective and efficient delivery of quality special education programs and support services with an emphasis on technical assistance.

Sec. 869. Section 79-347, Revised Statutes Supplement, 1995, is amended to read:

~~79-347.~~ (1) The Legislature finds that the funding system for special education programs and support services should be neutral as to identification and programming of programs and support services for students with handicaps and students needing support services. Further, the Legislature finds that the funding system for special education programs and support services for students with handicaps and students needing support services should encourage programs and services that are consistent with sound education practice, preventive, and, when appropriate, integrated with regular education services. Educational services for students with handicaps and students needing support services should be driven by educational needs rather than state funding formulas.

(2) It is the intent of the Legislature that, beginning with school year 1998-99, there shall be implemented a new funding system to replace the existing excess cost reimbursement provisions for the funding of special education programs and support services offered by school districts, educational service units, and approved cooperatives. The new funding system shall be identification and program neutral, assure that adequate resources are available to meet the needs of handicapped students with handicaps and students needing support services, and provide for equity in special education programs and support services to students regardless of the district in which students reside. Further, the new funding system should be designed so that average annual special education costs increase at a rate no greater than the average annual growth rate of general education. State funding should be made available to meet the needs of handicapped students with handicaps and students needing support services without the requirement that such students be identified and verified as students with disabilities as defined in the Special Education Act and the federal Individuals with Disabilities Education

Act and rules and regulations adopted and promulgated pursuant to such acts.

(3) The Legislature recognizes that the shift from an excess cost reimbursement funding formula to a new funding system which meets the intent stated in subsections (1) and (2) of this section for special education programs and support services raises several issues which demand further examination and public discussion prior to implementation, including (a) how to establish the basis for distribution of state funding, (b) how to provide for the financial support of students with extremely disabling conditions and extraordinary needs which result in high costs to school districts beyond the districts' ability to reasonably provide for special education programs and support services utilizing block grant support and local resources, (c) how to establish the state funding level, (d) how to assure that funding for special education programs and support services is maintained at the same levels of growth or decline as funding levels of general education, (e) how to establish educational practices for delivery of quality special education programs and support services, (f) how the new funding system should be integrated with general state aid to be consistent with the principles of student and taxpayer equity underlying the state's equalization aid program, (g) how to phase in the new funding system to minimize financial impacts on school districts, (h) how accountability for appropriate educational needs shall be established for school districts, educational service units, or approved cooperatives to qualify for the new funding system, and (i) how the State Department of Education can integrate the administration of the new funding system to eliminate duplication in aid payments, accounting, and reporting of expenditures. It is the intent of the Legislature that these issues shall be addressed by the Special Education Accountability Commission in consultation with the School Finance Review Committee, the State Department of Education, and the Education Committee of the Legislature. The Education Committee of the Legislature and the Special Education Accountability Commission shall receive written proposals for alternative funding systems for special education services which meet the goals stated in subsections (1) and (2) of this section from any individual, agency, or group until January 15, 1996.

Sec. 870. Section 79-349, Revised Statutes Supplement, 1995, is amended to read:

79-349: The State Board of Education, with the assistance of the State Department of Education, shall provide a process for the waiver of rules and regulations adopted and promulgated under Chapter 79 as such rules and regulations relate to special education programs and support services related to special education. Such waiver shall not apply to any requirements subject to federal laws or federal rules and regulations. Any entity subject to state rules and regulations for special education may apply for a waiver of such rules and regulations each year until August 31, 1998. To the extent practicable, the State Board of Education shall grant or deny a waiver request at the next regularly scheduled meeting of the board following receipt of the written waiver request. The waiver process shall be studied for effectiveness by the State Board of Education, and the board shall provide a report to the Education Committee of the Legislature in January of 1998.

The board may grant a waiver to the rules and regulations if the process set out by the department is followed.

#### ARTICLE 11

#### PART (d) - CHILDREN WITH DISABILITIES AND FAMILY SERVICE SYSTEM ACT

Sec. 871. Section 79-3901, Reissue Revised Statutes of Nebraska, is amended to read:

79-3901: Sections 79-3901 to 79-3910 871 to 879 of this act shall be known and may be cited as the Children with Disabilities and Family Service System Act.

Sec. 872. Section 79-3902, Reissue Revised Statutes of Nebraska, is amended to read:

79-3902: The Legislature finds there are children with disabilities in Nebraska whose needs are so unique and demanding that very specialized educational programs and family support systems are necessary to address those needs.

The Legislature further recognizes that in accordance with sections 43-532 to 43-535 every effort should be made in Nebraska to provide programs that are family-based and community-based. Furthermore, Nebraska, in compliance with the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 to 1485 et seq., and the Special Education Act, shall provide free and appropriate education in the least restrictive environment.

The Legislature finds that appropriate educational programs and family support systems needed by some have not always been available in

Nebraska, and consequently children from Nebraska have been placed out of their homes in programs in other states. Such programs are often extraordinarily expensive and result in children being hundreds or thousands of miles away from their families and home communities.

The Legislature finds that it is necessary to provide an array of services in order to meet the specialized needs of children with disabilities who are at risk of being placed out of their homes. Such an array may include, but not be limited to, intensive in-home therapy, specialized foster care, alternative home placement, and temporary and permanent residential care.

The Legislature recognizes that such services need to be comprehensive, addressing both the educational and family needs of the children. Such comprehensive services will require the coordination and collaboration of state agencies in partnership with regional and local service providers. While the State Department of Education is responsible for the educational needs in compliance with Article VII, section 1, of the Constitution of Nebraska, other agencies will need to work in concert with the State Department of Education to provide necessary family needs.

The Legislature, therefore, declares it is the responsibility of the state to make every effort to provide appropriate educational and family services for all its citizens within the state through a system based on the prudent management of resources. It is the intent of the Legislature to cause services to be arranged and configured so that out-of-state placement is seldom needed. It shall also be the public policy of this state to provide an array of comprehensive services for children with disabilities who may be at risk for out-of-home placement because of specialized educational and family needs. Through interagency coordination and collaboration, such services, to the greatest extent possible, shall be community-based and provided in the most appropriate, least restrictive environment.

Sec. 873. Section 79-3903, Reissue Revised Statutes of Nebraska, is amended to read:

79-3903- For purposes of the Children with Disabilities and Family Service System Act:

(1) Children with disabilities shall mean means handicapped children as defined in section 79-3309 ~~802 of this act~~ who are subject to section 79-3315 ~~808 of this act~~ and who cannot be educated in their home communities or who are at risk of out-of-home placement;

(2) Department shall mean means the State Department of Education; and

(3) State plan shall mean means the annual plan of services prepared by the department and team pursuant to section 79-3904, and

~~(4) Team shall mean the Children with Disabilities and Family Service System Planning Team created in section 79-3907- 874 of this act.~~

Sec. 874. Section 79-3904, Reissue Revised Statutes of Nebraska, is amended to read:

79-3904- The department, in consultation with the team, shall by January 1, 1992, prepare a state plan. The state plan shall be a plan of services for children with disabilities, which plan shall include:

(1) The number of children with disabilities to be served and a description of their needs;

(2) A detailed description of programs and services to be provided;

(3) A detailed description of programs and services needed with proposals for funding and development;

(4) Recommendations for specific duties and responsibilities for state agencies;

(5) A process for dissemination of proposed standards and regulations which facilitates the active involvement of communities and families;

(6) Procedures for regular case reviews and program reviews by agency administrators;

(7) Reports of independent studies of the efficiency and effectiveness of programs provided and policies implemented;

(8) A variety of mechanisms for families and, when appropriate, for children to advise the administrators of the programs operated under the Children with Disabilities and Family Service System Act about program structures, expectations, outcomes, unmet needs, and issues specific to groups defined by economic status or by racial, cultural, or ethnic identity;

(9) An interagency decision process for the provision of appropriate educational and family support services for children at risk of out-of-home placement. Such a decision process shall assure that all options for community-based programs have been explored before out-of-community placements are made. It shall also assure that appropriate services are present in

communities before children are placed in such communities; and

(10) A process for monitoring and reporting expenditures of state funds for all out-of-state placements.

Sec. 875. Section 79-3905, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3905-~~ The state plan shall include an examination of existing state school resources and consideration of reorganization and restructuring of such resources to meet the needs of the children with disabilities at risk of out-of-home placement. ~~By January 1, 1992, the team shall report to the legislature all information required in section 79-3904-~~

Sec. 876. Section 79-3906, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3906-~~ The state plan shall be responsive to the cultural needs of the hearing-impaired and visually impaired communities.

Sec. 877. Section 79-3908, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3908-~~ The department shall annually update the state plan. Each state plan and annual update shall be submitted to the Legislature by June 1 of each year beginning in 1992.

Sec. 878. Section 79-3909, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3909-~~ ~~A process for monitoring and reporting expenditures of state funds for all out-of-state placements shall be proposed by the team. A coordinated process for monitoring and reporting process expenditures of state funds for all out-of-state placements shall be adopted by the State Department of Education, the Department of Health, the Department of Public Institutions, and the Department of Social Services no later than June 1, 1992.~~

Sec. 879. Section 79-3910, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-3910-~~ The State Department of Education, the Department of Health, the Department of Public Institutions, and the Department of Social Services shall adopt and promulgate rules and regulations to carry out the Children with Disabilities and Family Service System Act.

#### ARTICLE 11

##### PART (e) - PROGRAMS FOR STUDENTS WITH HEARING IMPAIRMENTS

Sec. 880. Section 79-1901, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1901-~~ The State Department of Education shall have general control of all educational programs for acoustically handicapped persons of suitable age and capacity from birth until completion of a suitable program of education, to include, but not be limited to, the Nebraska School for the Deaf.

Sec. 881. Section 79-1902, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1902-~~ The purpose of the Nebraska School for the Deaf shall be is to provide general and special education for persons not to exceed twenty-one years of age, for whose benefit such school was created, until completion of a general or special program.

Sec. 882. Section 79-1903, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1903-~~ All the residents of this state who are (1) acoustically handicapped to such an extent that they cannot acquire an education in the public schools of this state, (2) of suitable age and capacity, and (3) of good moral character shall be entitled to an education in the Nebraska School for the Deaf without charge except as provided by section 79-3331 823 of this act.

Sec. 883. Section 79-1904, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1904-~~ Persons not residents of the state shall be admitted to the Nebraska School for the Deaf upon their compliance with the conditions of admission for citizens of this state and paying to the superintendent of the school a sum fixed by the State Board of Education.

Sec. 884. Section 79-1907, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1907-~~ The parents or guardians of any pupil admitted to the Nebraska School for the Deaf shall furnish suitable clothing for such pupil, shall pay his or her transportation to and from the school, and shall support the pupil during the summer vacation.

Sec. 885. Section 79-1908, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1908.~~ Whenever any pupil in the Nebraska School for the Deaf is not otherwise supplied with necessary clothing, or with the means to pay his or her transportation home at the close of the school term, he the pupil shall be supplied by the superintendent of the school with the necessary clothing and means of transportation. The superintendent shall make out an account of the cost thereof against the parent or guardian, if the pupil be is a minor, and against the pupil if he or she has no parent or guardian, or shall have or has attained the age of majority. The account shall be certified to be correct by the superintendent, and when so certified the account shall be presumed correct in all courts. The superintendent shall remit the account to the treasurer of the county from which the pupil came. The treasurer shall then proceed to collect the account by suit in the name of his or her county, if necessary, and shall pay the amount collected to the superintendent of the school. Whenever it ~~shall appear~~ appears that the parent or guardian of the pupil is unable to pay the account and that such pupil is a pauper, then the account shall be paid from the county general fund.

Sec. 886. Section 79-1910.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-1910.01.~~ There is hereby established in the state treasury a special fund to be known as the The Nebraska School for the Deaf Cash Fund which is established. The fund, when appropriated by the Legislature, shall be expended solely to aid in defraying the expenses of the school. All money received by the school, except any federal funds or trust funds, shall be credited to such fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 887. Section 79-1911, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1911.~~ There shall be established on behalf of any school as provided for by sections 79-3337 and 79-3338, the Nebraska School for the Deaf as provided for by Chapter 79, article 19, and the Nebraska School for the Visually Handicapped as provided for by Chapter 79, article 20, an An emergency cash fund for each such school in an amount which at no time shall is established on behalf of the Nebraska School for the Deaf. The fund shall not exceed five hundred dollars. Such emergency cash fund shall be used to provide for immediate and unusual needs as may be required and shall be reimbursed from the General Fund appropriation of each such school.

Sec. 888. Section 79-1913, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1913.~~ The State Department of Education shall coordinate the curriculum and method of service delivery of the education program for acoustically handicapped children with the program offered by the Nebraska School for the Deaf.

Sec. 889. Section 79-1914, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1914.~~ The State Department of Education shall adopt and promulgate rules and regulations necessary to carry out section ~~79-1913~~ 888 of this act.

Sec. 890. Section 79-1915, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1915.~~ The Nebraska School for the Deaf may lease or otherwise contract for the use of property and facilities controlled by the school which are not needed for programs of the school.

#### ARTICLE 11

##### PART (f) - NEBRASKA SCHOOL FOR THE VISUALLY HANDICAPPED

Sec. 891. Section 79-2001, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2001.~~ The State Department of Education shall have oversight and general control of all programs of education and welfare for visually handicapped persons of suitable age and capacity from birth until completion of a suitable program of education, to include, but not be limited to, the state school for the visually handicapped, known as the Nebraska School for the Visually Handicapped.

Sec. 892. Section 79-2002, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2002.~~ The purpose of the Nebraska School for the Visually Handicapped shall be is to provide general and special education for persons not to exceed twenty-one years of age for whose benefit such school was created, until completion of a general or special program. The school shall be the state resource center for all educational programs for visually

handicapped children in Nebraska and shall provide services such as inservice training of teachers, itinerant teaching, counseling services, and the loan of equipment, books, and learning media to ~~local~~ school districts and educational service units.

Sec. 893. Section 79-2003, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2003-~~ The State Department of Education shall be responsible for the education and welfare of all persons who are (1) visually handicapped to such an extent that they cannot acquire an education in the public schools of the state, (2) not otherwise provided for, (3) of suitable age and capacity, and (4) of good moral character without charge except as provided by section ~~79-3331~~ 823 of this act.

Sec. 894. Section 79-2004, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2004-~~ Persons not residents of the state shall be admitted to the Nebraska School for the Visually Handicapped upon their compliance with the conditions of admission for citizens of this state and paying to the superintendent of the school a sum fixed by the State Board of Education.

Sec. 895. Section 79-2005, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2005-~~ The State Department of Education shall be responsible for sanitary and hygienic conditions and provide such professional and medical services, either on a ~~full-~~ full-time or part-time basis, as deemed necessary for the health and welfare of visually handicapped persons, for whom educational programs are provided.

Sec. 896. Section 79-2006, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2006-~~ The parents or guardians of any pupil admitted to the Nebraska School for the Visually Handicapped shall furnish suitable clothing for such pupil, shall pay his or her transportation to and from the school, and shall support the pupil during the summer vacation.

Sec. 897. Section 79-2007, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2007-~~ Whenever any pupil in the Nebraska School for the Visually Handicapped is not otherwise supplied with necessary clothing, or with the means to pay his or her transportation home at the close of the school term, he or she shall be supplied by the superintendent of the school with the necessary clothing and means of transportation. The superintendent shall make out an account of the cost thereof against the parent or guardian or against the pupil if he or she has no parent or guardian. The account shall be certified to be correct by the superintendent, and when so certified the account shall be presumed correct in all courts. The superintendent shall remit the account to the treasurer of the county from which the pupil came. The treasurer shall then proceed to collect the account by suit in the name of his or her county, if necessary, and shall pay the amount collected to the superintendent of the school. Whenever it ~~shall appear~~ appears that the parent or guardian of the pupil is unable to pay the account and that such pupil is a pauper, ~~then~~ the account shall be paid from the county general fund.

Sec. 898. Section 79-2009.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-2009.01-~~ There is hereby established in the state treasury a special fund to be known as the The Nebraska School for the Visually Handicapped Cash Fund which is established. The fund, when appropriated by the Legislature, shall be expended solely to aid in defraying the expenses of the school. All money received by the school, except any federal funds or trust funds, shall be credited to such fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 899. An emergency cash fund is established for the Nebraska School for the Visually Handicapped. The fund shall not exceed five hundred dollars. Such emergency cash fund shall be used to provide for immediate and unusual needs as may be required and shall be reimbursed from the General Fund appropriation of such school.

Sec. 900. Section 79-2010, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2010-~~ The Nebraska School for the Visually Handicapped, upon approval of the Commissioner of Education, may contract with a local school district, educational service unit, or public institution of city, county, or state government for educational services which cannot be provided more effectively by the school.

Sec. 901. Section 79-2011, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2011-~~ Children under the age of sixteen years classified as visually handicapped shall attend either an approved program provided by a local school district, an approved program provided by an educational service unit, or an approved program provided in a nonpublic school or the Nebraska School for the Visually Handicapped. ~~It shall be the responsibility of the The State Department of Education to shall determine the need for and adequacy of all programs of instruction for the visually handicapped in public and nonpublic schools and to approve such programs.~~

Sec. 902. Section 79-2012, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2012-~~ The Nebraska School for the Visually Handicapped may lease or otherwise contract for the use of property and facilities controlled by the school which are not needed for programs of the school.

ARTICLE 11  
PART (g) - VOCATIONAL REHABILITATION

Sec. 903. Section 79-1446, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1446-~~ There is hereby established a ~~The~~ Division of Rehabilitation Services in the State Department of Education ~~is established.~~

Sec. 904. Section 79-1447, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1447-~~ The Division of Rehabilitation Services shall be administered, under the general supervision and direction of the Commissioner of Education, by a director appointed by the commissioner, with the approval of the State Board of Education, in accordance with established personnel standards and on the basis of his ~~or her~~ education, training, experience, and demonstrated ability in the field of vocational rehabilitation. In carrying out ~~his~~ duties under the provisions of sections 79-1446 to 79-1456 ~~903 to 914 of this act~~, the director shall:

(1) With the approval of the commissioner, prepare rules and regulations for adoption and promulgation by the State Board of Education governing (a) personnel standards, (b) the protection of records and confidential information, (c) eligibility, investigation, and determination thereof for vocational rehabilitation services, (d) procedures for fair hearings, and (e) such other matters as he the director finds necessary to carry out the purposes of sections 79-1446 to 79-1456 such sections;

(2) With the approval of the commissioner, establish and maintain appropriate subordinate administrative units within the division;

(3) Recommend to the commissioner for the appointment of such personnel as he the director deems necessary for the efficient performance of the functions of the division;

(4) Prepare and submit to the State Board of Education annual reports of the activities and expenditures and, prior to each regular session of the Legislature, estimates of sums required for carrying out the provisions of such sections 79-1446 to 79-1456 and estimates of the amounts to be made available for this purpose from all sources;

(5) Make certification for disbursement, in accordance with rules and regulations, of funds available for vocational rehabilitation;

(6) With the approval of the commissioner and the State Board of Education, take such other action as he the director deems necessary or appropriate to carry out the purposes of ~~sections 79-1446 to 79-1456 such sections;~~

(7) With the approval of the commissioner and the State Board of Education, when he the director deems it advisable, delegate to any officer or employee of the division such of ~~his~~ powers and duties, except the making of regulations and the making of recommendations for the appointment of personnel, as he the director finds necessary to carry out the purposes of ~~sections 79-1446 to 79-1456 such sections.~~

Sec. 905. Section 79-1448, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1448-~~ Except as otherwise provided by law for the rehabilitation of the blind, the State Board of Education through the Division of Rehabilitation Services shall provide vocational rehabilitation services to disabled individuals determined by the director to be eligible ~~therefor and, in for such services.~~ In carrying out the purposes of sections 79-1446 to 79-1456 ~~903 to 914 of this act~~, the division is authorized among other things:

(1) To cooperate with other departments, agencies, and institutions, both public and private, in providing for the vocational rehabilitation of

disabled individuals, in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of sections 79-1446 to 79-1456 such sections, such programs, facilities, and services as may be necessary and desirable; and

(2) To conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals.

Sec. 906. Section 79-1449, Reissue Revised Statutes of Nebraska, is amended to read:

79-1449. The State Board of Education, through the Division of Rehabilitation Services, ~~is hereby empowered and directed~~ ~~(1) to shall~~ (1) cooperate, pursuant to agreements with the federal government, in carrying out the purposes of any federal acts pertaining to vocational rehabilitation and ~~is authorized to may~~ adopt such methods of administration as are found by the federal government to be necessary for the proper and efficient operation of such agreements or plans for vocational rehabilitation and to comply with such conditions as may be necessary to secure the full benefits of such federal acts and appropriations, (2) ~~to administer~~ any legislation pursuant thereto enacted by the Legislature, (3) ~~of the State of Nebraska,~~ (3) ~~to direct~~ the disbursement of and administer the use of all funds provided by the federal government or this state for the vocational rehabilitation of disabled persons of this state, and (4) ~~to do~~ all things necessary to insure the vocational rehabilitation of disabled persons.

Sec. 907. Section 79-1450, Reissue Revised Statutes of Nebraska, is amended to read:

79-1450. The State Treasurer is hereby designated as the custodian of all funds received by the state from appropriations made by the Congress of the United States or from other sources for the purpose of carrying out any state or federal act pertaining to vocational rehabilitation. The State Treasurer is authorized to receive and provide for the proper custody of such funds, and to establish such special funds and accounts as may be necessary, and shall make disbursements therefrom ~~from such funds and accounts~~ for vocational rehabilitation purposes upon certification in the manner provided in subdivision (5) of section 79-1447 ~~904 of this act.~~

Sec. 908. Section 79-1451, Reissue Revised Statutes of Nebraska, is amended to read:

79-1451. Budget estimates of the amounts of appropriations needed each biennium for vocational rehabilitation services and for the administration of such program shall be submitted ~~in such manner as may be as~~ provided by law, and sufficient funds for the purpose of carrying out the provisions of sections 79-1446 to 79-1456 ~~903 to 914 of this act~~ shall be appropriated by the Legislature. In the event federal funds are available to the State of Nebraska for vocational rehabilitation purposes, the Division of Rehabilitation Services is authorized to comply with such requirements as may be necessary to obtain the maximum amount of federal funds and the most advantageous proportion possible insofar as this may be done without violating other provisions of the state laws and Constitution of the State of Nebraska.

Sec. 909. Section 79-1452, Reissue Revised Statutes of Nebraska, is amended to read:

79-1452. Vocational rehabilitation services shall be provided to any disabled individual, other than the blind, who is a resident of the state at the time of filing his application therefor and whose vocational rehabilitation, as the director determines after a full investigation, can be satisfactorily achieved. Vocational rehabilitation services ~~mean~~ means any services provided directly or through public or private instrumentalities found by the director to be necessary to enable such a disabled individual to overcome his or her employment handicap and to enable him or her to engage in an occupation, including, but not limited to: Medical ~~and~~ medical and vocational diagnosis; vocational guidance, counseling, and placement; rehabilitation training; physical restoration; transportation; occupational licenses; placement equipment and materials; ~~and~~ maintenance and training books and materials; ~~Also included is~~ the acquisition of vending stands or other equipment and initial stocks and supplies for use by severely handicapped individuals in any type of small business, the operation of which will be improved through the management and supervision by the Division of Rehabilitation Services; and the establishment of public and other nonprofit workshops for the severely disabled.

Sec. 910. Section 79-1453, Reissue Revised Statutes of Nebraska, is amended to read:

79-1453. Any individual, applying for or receiving vocational rehabilitation, who is aggrieved by any action or inaction of the Division of Rehabilitation Services shall be entitled, to a fair hearing in accordance with regulations adopted and promulgated by the State Board of Education. 7

to a fair hearing.

Sec. 911. Section 79-1454, Reissue Revised Statutes of Nebraska, is amended to read:

79-1454- It shall be unlawful, except for purposes directly connected with the administration of the vocational rehabilitation program and in accordance with regulations, for any person or persons to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, or names of, or any information concerning persons applying for or receiving vocational rehabilitation, directly or indirectly derived from the records, papers, files, or communications of the state or subdivisions or agencies thereof, or acquired in the course of the performance of official duties, except in response to summons, subpoena, or other order of a court.

Sec. 912. Section 79-1455, Reissue Revised Statutes of Nebraska, is amended to read:

79-1455- The State Board of Education is hereby empowered to enter into an agreement on behalf of the State of Nebraska with the Secretary of the United States Department of Health and Human Services to carry out the provisions of the federal Social Security Act, as amended, relating to the making of determinations of disability under the provisions of such act.

Sec. 913. Section 79-1456, Reissue Revised Statutes of Nebraska, is amended to read:

79-1456- The State Treasurer is hereby authorized and directed to shall act as custodian of the money paid by the federal government to the state to carry out the agreement referred to in section 79-1455 912 of this act and shall disburse such money in accordance with the direction of the State Board of Education.

Sec. 914. Section 79-1457, Reissue Revised Statutes of Nebraska, is amended to read:

79-1457- The State Department of Education shall enter into an interagency agreement with the Department of Public Institutions to provide vocational rehabilitation services and supported employment programs to persons with developmental disabilities. The Division of Rehabilitation Services of the State Department of Education shall match all state and local funds provided by the Department of Public Institutions and developmental disabilities regions to the extent that federal vocational rehabilitation funds are available.

## ARTICLE 11

### PART (h) - ADULT EDUCATION

Sec. 915. Section 79-1415, Reissue Revised Statutes of Nebraska, is amended to read:

79-1415- There is hereby established in the State Department of Education the The Adult Education Program is established in the State Department of Education. The program shall assist in the development and strengthening of community education programs in local areas school districts of the state and provide for the education of any person who is sixteen years of age or older, who is not enrolled in high school and is not required to be enrolled in school, who lacks sufficient mastery of basic educational skills to enable him or her to function effectively in society or does not have a certificate of graduation from a high school or equivalent educational experience, and whose lack of mastery of basic skills results in an inability to speak, read, write, or understand the English language constituting a substantial impairment of his or her ability and evidences a need for programs to help eliminate such inability and raise his or her level of education making it less likely that he or she will become dependent on others. The program shall be under the direction of a state supervisor appointed by the department.

Sec. 916. Section 79-1416, Reissue Revised Statutes of Nebraska, is amended to read:

79-1416- Local school School boards and boards of education may expend money for conducting schools and classes in school buildings, industrial establishments, places of employment, and such other places as may be expedient for the purpose of giving instruction to persons described in section 79-1415 915 of this act. Such courses of instruction or study may include basic educational skills, English, history, civics, and other subjects tending to promote good citizenship and to increase vocational efficiency.

Sec. 917. Section 79-1418, Reissue Revised Statutes of Nebraska, is amended to read:

79-1418- The Commissioner of Education may disburse, from funds

appropriated for the department State Department of Education, sufficient money for supervision, instruction, and other necessary expense expenses in conducting the Adult Education Program.

#### ARTICLE 12 - EDUCATIONAL SERVICE UNITS

Sec. 918. Sections 918 to 956 of this act shall be known and may be cited as the Educational Service Units Act.

Sec. 919. Section 79-2201, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2201.~~ There are hereby established seventeen ~~Seventeen~~ educational service units are established. The official name of such units shall be Educational Service Unit No. ... of the State of Nebraska, and the individual number thereof to of each unit shall be determined as provided in section ~~79-2202~~ 920 of this act.

Sec. 920. Section 79-2202, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2202.~~ The educational service units established by section ~~79-2201~~ 919 of this act shall be as follows:

- (1) The counties of Cedar, Dixon, Dakota, Wayne, Knox, and Thurston;
- (2) The counties of Cuming, Burt, Dodge, and Saunders;
- (3) The counties of Washington, Douglas, Sarpy, and Cass;
- (4) The counties of Otoe, Johnson, Nemaha, Pawnee, and Richardson;
- (5) The counties of Thayer, Jefferson, and Gage;
- (6) The counties of York, Seward, Lancaster, Fillmore, and Saline;
- (7) The counties of Boone, Platte, Colfax, Nance, Merrick, Polk, and Butler;
- (8) The counties of Boyd, Holt, Wheeler, Antelope, Pierce, Madison, and Stanton;
- (9) The counties of Adams, Clay, Webster, Nuckolls, and Hamilton; and that portion of Hall County lying south of the Platte River;
- (10) The counties of Howard, Greeley, Garfield, Loup, Blaine, Custer, Sherman, Dawson, Buffalo, and Valley; and that portion of Hall County lying north of the Platte River;
- (11) The counties of Gosper, Phelps, Kearney, Furnas, Harlan, and Franklin;
- (12) The counties of Sheridan, Dawes, Sioux, Box Butte, and Morrill;
- (13) The counties of Scotts Bluff and Banner;
- (14) The counties of Kimball, Garden, Cheyenne, and Deuel;
- (15) The counties of Chase, Hayes, Frontier, Dundy, Hitchcock, and Red Willow;
- (16) The counties of Grant, Hooker, Thomas, Arthur, McPherson, Logan, Keith, Perkins, and Lincoln; and
- (17) The counties of Keya Paha, Brown, Rock, and Cherry.

Sec. 921. Section 79-2201.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2201.02.~~ (1) The Legislature declares its intent and purpose to provide a statement of role and mission for the educational service units to serve as educational service providers in the state's system of elementary and secondary education.

(2) The role of the educational service units shall be:  
 (a) To act primarily as a service agency in providing service to schools as identified and requested by member school districts;

(b) As providers of educational services, to meet minimum accreditation standards set by the State Board of Education that will:

(i) Provide for accountability to taxpayers;  
 (ii) Assure that educational service units are assisting and cooperating with local school districts to provide for equitable educational opportunities statewide; and

(iii) Assure a level of quality in educational programs and services provided to the local school districts by the educational service units;

(c) To act, in cooperation with the State Department of Education and local school districts, in a supporting role in the implementation of plans, strategies, and goals for the enhancement of educational opportunities of elementary and secondary education; and

(d) When appropriate and as funds become available, to serve as a repository, clearinghouse, and administrator of federal, state, and private funds on behalf of school districts which choose to participate in special programs, projects, or grants, in order to enhance the quality of education in Nebraska schools.

(3) The mission of the educational service units shall be is:

(a) To provide educational services as identified and requested by

member school districts;

(b) To provide for economy, efficiency, and cost-effectiveness in the cooperative delivery of educational services;

(c) To provide educational service through leadership, research, and development in elementary and secondary education; and

(d) To develop, in cooperation with the State Department of Education and local school districts, long-range plans, strategies, and goals for the enhancement of educational opportunities in elementary and secondary education.

(4) Educational service units shall not regulate local school districts.

Sec. 922. Section 79-2202.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2202-02-~~ Commencing January 1, 1988, and ending December 31, 1988, any school district may, by a majority vote of the local school board or board of education of such school district, decide to remove itself from the educational service unit of which it is a member under section 79-2202 920 of this act. Such election shall be communicated to the educational service unit not later than February 1, 1988, and shall become effective on the last day of the current fiscal year of the educational service unit. An election communicated after February 1, 1988, shall become effective the last day of the educational service unit's subsequent fiscal year. After the effective date of the election: (1) The property within the school district shall be exempt from taxes levied for the educational service unit under section 79-2210 942 of this act; (2) the school district shall only be obligated for its proportionate share of the indebtedness incurred by the educational service unit prior to the date of the election and for contractual commitments between the educational service unit and the school district; (3) notwithstanding the provisions of section 79-2204-01; ~~ne~~ 932 of this act, a school district which has, pursuant to this section, opted to remove itself from an educational service unit shall not have any claim on any of the real or personal property of the educational service unit from which it has withdrawn; and (4) any school district which has, pursuant to this section, opted to remove itself from an educational service unit shall be entitled to enter into contracts to receive services offered by any educational service unit. The educational service unit shall not arbitrarily refuse to sell its services to such school district and shall not sell such services at an unreasonable cost. Any school district which has opted to remove itself from an educational service unit may appeal any decision of such educational service unit to deny services or to charge an unreasonable fee for such services to the district court of the county in which the administrative office of the educational service unit is located.

Sec. 923. Section 79-2202.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2202-03-~~ The Legislature finds that from time to time there is a need to change the boundaries of educational service units in response to changes in student population and in student and school needs as well as changes in the taxable wealth and financial resources of the educational service units. It is the intent of the Legislature to establish an orderly process for locally initiated reorganization of educational service unit boundaries. The purpose of sections 79-2202-03 to 79-2202-08 923 to 928 of this act is to establish the statutory framework for such process and to empower the State Board of Education to make changes in educational service unit boundaries based on statutory criteria.

Sec. 924. Section 79-2202.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2202-04-~~ On and after January 1, 1989, petitions to the State Board of Education to change educational service unit boundaries may be initiated by a resolution adopted by a majority vote of any educational service unit board or any board of education or school board. In addition, such boards shall initiate a petition for reorganization upon the receipt of a petition signed by ten percent of the registered voters of such educational service unit or school district and certified by the county clerk or election commissioner.

Sec. 925. Section 79-2202.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2202-05-~~ 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)~~ (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 cases 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- ~~(a)~~ <sup>(\*)</sup> Provision provision for the utilization of existing facilities, equipment, and materials- and ~~(b)~~ <sup>(\*)</sup> 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.

Sec. 926. Section 79-2202.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2202.06.~~ Petitions ~~A petition~~ to reorganize educational service units may include the following:

(1) A transfer of a school district or districts from one established educational service unit to another established educational service unit;

(2) A withdrawal from an established educational service unit by two or more school districts to form a new educational service unit;

(3) An addition of a school district or districts which are not part of an educational service unit to an established or new educational service unit; and

(4) A withdrawal from a new or established educational service unit by a school district or districts.

Sec. 927. Section 79-2202.07, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2202.07.~~ The State Board of Education shall grant or deny any petition to change educational service unit boundaries based upon the following criteria:

(1) The educational needs of students in the affected school districts and the affected educational service units;

(2) The economic viability of the proposal as it relates to affected established educational service units or affected proposed educational service units;

(3) Any community of interest among affected school districts and affected educational service units; and

(4) Geographic proximity as such would affect the ability of affected educational service units to deliver service in a cost-effective manner.

Sec. 928. Section 79-2202.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2202.08.~~ The State Board of Education, within ninety days ~~from~~ after the receipt of any such petition, 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 the board. Within one hundred twenty days ~~from~~ 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. 929. Section 79-2203.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2203.02.~~ Members of boards of educational service units existing prior to approval of any plan of reorganization and prior to the reinclusion of counties in an educational service unit as required in section ~~79-2203.04~~ 931 of this act shall serve as board members of educational service units which are reorganized pursuant to sections ~~79-2202.03 to 79-2202.08~~ and 79-2202.04 923 to 928 and 931 of this act 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 and within thirty days following January 1, 1988, in the case of counties reincluded in an educational service unit as required in section ~~79-2203.04~~ 931 of this act, the Commissioner of Education shall call a meeting of board members of each educational service unit being reorganized pursuant to sections ~~79-2202.03 to 79-2202.08~~ and 79-2203.04 923 to 928 and 931 of this act. At such meeting, members of each such board shall appoint one member from each county 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 and not later than January 1, 1989, in the case of counties reincluded in an educational service unit as required in section 79-2203-04 931 of this act. 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. 930. Section 79-2203.03, Reissue Revised Statutes of Nebraska, is amended to read:

79-2203-03- The board of any reorganized educational service unit pursuant to sections 79-2202-03 to 79-2202-08 and 79-2203-04 923 to 928 and 931 of this act is authorized to issue warrants in an amount necessary for the following purposes: (1) To pay its expenses for a one-year period beginning one year after approval of any plan of reorganization by the State Board of Education or for a one-year period beginning January 1, 1989, in the case of counties reincluded in an educational service unit as required in section 79-2203-04 931 of this act; and (2) to finance the programs and services of the reorganized educational service unit beginning one year after the approval of any plan of reorganization by the State Board of Education or beginning January 1, 1989, in the cases of counties reincluded as required in such section 79-2203-04 until the distribution of the proceeds of its first tax levy less the amount of cash on hand and to be received during such period. Whenever any board of a reorganized educational service unit shall issue issues warrants, such board shall make a tax levy at the next tax-levying period sufficient to pay the same and the interest thereon. Such warrants shall bear interest at the rate of not more than six percent per annum and shall be recorded by the treasurer of the board and redeemed as provided in Chapter 77, article 22, and amendments thereto.

Sec. 931. Section 79-2203.04, Reissue Revised Statutes of Nebraska, is amended to read:

79-2203-04- On and after January 1, 1988, any county which has been excluded from an educational service unit shall be reincluded in an educational service unit as prescribed in section 79-2202 920 of this act.

Sec. 932. Section 79-2204.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-2204-01- (1) Within one year from after the date of approval of any plan of reorganization or not later than January 1, 1989, in the case of counties being reincluded as required by section 79-2203-04 931 of this act, the county treasurer of each county shall adjust the tax list of the educational service unit in accordance with the changes in boundaries of the educational service units pursuant to sections 79-2202-03 to 79-2202-08 and 79-2203-04 923 to 928 and 931 of this act so that the uncollected taxes levied upon property that has been transferred to another educational service unit shall when collected be placed to the credit of the reorganized educational service unit to which the property is a part.

(2) The board of every existing educational service unit that is to become reorganized pursuant to sections 79-2202-03 to 79-2202-08 923 to 928 of this act shall not employ any person for a term greater than one year. Any contract or lease made by such a governing body is hereby declared to be null and void if it extends for a period greater than one year unless validated by the board of the reorganized educational service unit. Nothing in this This subsection shall be deemed is not inconsistent with or does not negate any rights of any educational service unit certificated employees to continued employment pursuant to sections 79-1254-05 to 79-1254-08 and 79-2216 to 79-2221 476 to 479 and 951 to 956 of this act. The 7 nor shall the provisions of this subsection do not negate any previously negotiated collective-bargaining agreements between educational service unit certificated employees and the educational service unit covering a period of time greater than one year.

(3) Any certificated employee who, in the year immediately preceding a reorganization, has been employed one-half time or more by an educational service unit which is affected by an approved petition to change educational service unit boundaries shall, upon the effective date of the reorganization of the educational service unit boundaries pursuant to sections 79-2202-03 to 79-2202-08 923 to 928 of this act, have the option, for purposes of reduction in force, to be considered an employee of either the educational service unit at which he or she has been employed or of the educational service unit which will provide services to the affected school district. If such employee elects to be considered an employee of the educational service unit which will serve the affected school district, the employee shall not lose any right of seniority or tenure status after the transfer. If the certificated employee in the year immediately preceding reorganization is assigned less than one-half time to a school district petitioning or a school district in an

educational service unit petitioning for reorganization, then such certificated employee shall continue to be an employee of the educational service unit existing prior to reorganization.

(4) All official records of existing educational service units which shall be are reorganized in whole or in part pursuant to sections ~~79-2202-03 to 79-2202-08~~ 923 to 928 of this act shall be transferred to the office of the Commissioner of Education for storage.

Sec. 933. Section 79-2215, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2215-~~ Any Class IV or V school district may, prior to July 1, 1974, by action of the board of education of such a district become an educational service unit or a part of an existing educational service unit.

Sec. 934. Section 79-2203, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2203-~~ (1) Each educational service unit shall be governed by a board to be known as the Board of Educational Service Unit No. .... The educational service unit board 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. Successors to the members initially appointed shall be elected pursuant to section 32-515.

(2) Vacancies in office shall occur as set forth in section 32-560. Whenever any vacancy occurs on the board, the remaining members of such board shall appoint an individual residing within the geographical boundaries of the educational service unit 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 ~~sections 79-2201 to 79-2224~~ 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 local 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 qualified electors 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 qualified elector of any joint school district shall be eligible to hold office as the at-large representative if such elector 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 in accordance with section ~~79-2202-02~~ 922 of this act, 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 ~~79-2202-06~~ 926 of this act. 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 ~~79-2210~~ 942 of this act.

(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 ~~79-401~~ 154 of this act, 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.

Sec. 935. Section 79-2204, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2204-~~ The board of each educational service unit shall meet and organize by naming one of its members as president, one as vice president, and one as secretary. The board shall employ a treasurer who shall be paid a salary to be fixed by the board.

it shall be the function of the The board of the educational service unit to shall determine the participation of the educational service unit in providing supplementary educational services. If the board of the educational service unit does not provide supplementary educational services, it shall meet during each succeeding January to determine the participation in providing supplementary educational services for that calendar year.

Sec. 936. Section 79-2205, Reissue Revised Statutes of Nebraska, is amended to read:

79-2205. Each board of an educational service unit deciding to provide supplementary services shall appoint and fix the compensation and duties of an administrator, who shall be a person experienced in public school administration and who shall hold at least a standard administrative certificate. With the advice of the administrator, the board shall also employ and fix the compensation and duties of such professional and clerical assistants as shall be necessary. No board member of an educational service unit shall be employed by the educational service unit board on which he or she is a board member.

Sec. 937. Section 79-2206, Reissue Revised Statutes of Nebraska, is amended to read:

79-2206. (1) The board shall determine the location within the educational service unit of its principal office and may, if necessary for the performance of its duties under sections 79-2201 to 79-2224 the Educational Service Units Act, establish one or more other offices at such locations as it shall determine within the educational service unit. The board may acquire office space by purchase out of funds appropriated to it for educational purposes or may rent or lease such space as may be necessary. The board shall also acquire the personal property necessary for the performance of its duties.

(2) When due to boundary changes provided for in sections 79-2202-03 to 79-2202-08 923 to 928 of this act the principal office of an educational service unit is no longer located within the boundaries of the educational service unit, then the affected educational service unit may maintain its principal office outside the boundaries of the unit.

Sec. 938. Section 79-2207, Reissue Revised Statutes of Nebraska, is amended to read:

79-2207. The treasurer shall be the custodian of all funds of the board of the educational service unit. He or she shall attend all meetings of the board, shall prepare and submit in writing a monthly report of the state of its finances, and shall pay out money of the board only upon a warrant signed by the president, or in his or her absence by the vice president, and countersigned by the secretary. He The treasurer shall give bond, payable to the board, in such sum as the board shall determine conditioned for the faithful performance of his the duties as treasurer of the board and for the safekeeping and proper disbursement of all funds of the board collected or received by him or her. Such bond shall be signed by a corporate surety company authorized to do business within this state. Such bond may be enlarged at any time the board deems such enlargement necessary or advisable. The cost of such bond shall be paid out of funds of the board.

Sec. 939. Section 79-2208, Reissue Revised Statutes of Nebraska, is amended to read:

79-2208. When requested in writing by local boards of education or school boards, the board of each educational service unit may, at its discretion and within the limitations imposed by sections 79-2209 and 79-2210 941 and 942 of this act, (1) provide supplementary services to (a) the requesting school systems within its geographical area, (b) requesting school systems not within its geographical area to the extent allowed under section 79-2202-02 922 of this act, and (c) any other educational service unit, (2) plan and coordinate educational services within its geographical area whenever such services are offered on a cooperating basis between local school districts, and (3) contract for educational services with the board of any other educational service unit, any school district, any other educational agency, or any appropriate state or federal officer or agency, except that within that area of the service unit in which there exists an organized, full-time, approved city-county, multicounty, or regional health department with health services available, the educational service unit, if health services are provided, shall first seek to contract for school health services with such department for an amount of compensation agreeable to both such unit and board. The board of each educational service unit may charge for a portion or all of the costs of the additional services authorized by this section. If an educational service unit on December 25, 1969, has a health service facility, ~~nothing in this section shall~~ this section does not prevent the continued use by the unit of such facility. The educational service unit

may contract with such health department to provide school health services for that area of the educational service unit not served by such city-county, multicounty, or regional health department.

Sec. 940. Section 79-2201.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2201.01.~~ In order to carry out the purposes provided in section ~~79-2201.02~~ 921 of this act, educational service units may purchase, lease, or lease-purchase real estate, equipment, supplies, 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, and personal property for resale only to school districts and state colleges within the territorial boundaries of any educational service unit. When an educational service unit advertises for bids for administrative or instructional materials, 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. 941. Section 79-2209, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2209.~~ The board of each educational service unit may receive, for the purpose for which made available, any school district, county, state, or federal funds made available to it, or funds or property received from any other source, and may use tax revenue from the levy of the educational service unit for operational expenses and for the purpose of matching any funds that may be made available to it on a matching basis by any state or federal agency. ~~The board of each educational service unit,~~ and may utilize such personnel or services that may lawfully be offered by any state or federal agency or governmental unit.

Sec. 942. Section 79-2210, Revised Statutes Supplement, 1995, is amended to read:

~~79-2210.~~ After the adoption of its budget statement, the board for each educational service unit may levy a tax, in the amount which it requires under its adopted budget statement to be received from taxation, of not to exceed three and five-tenths cents on each one hundred dollars on the taxable valuation of the taxable property within its geographical unit, except that the tax may exceed three and five-tenths cents on each one hundred dollars of such valuation by up to five-tenths cent on each one hundred dollars of such valuation in order to carry out the purposes of section ~~79-2225~~ 950 of this act. The amount of such levy shall be certified by the secretary of the educational service unit board to the county board of equalization of each county in which any part of the geographical area of the educational service unit is located on or before September 20 of each year. Such tax shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of such tax, as collected, shall be remitted to the treasurer of the board not less frequently than once each month.

Sec. 943. Section 79-2210.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2210.01.~~ The board of each educational service unit, prior to the levying of any tax as provided by law, shall prepare a budget for the operation and maintenance of the educational service unit for the ensuing year. This budget shall itemize the contemplated expenditures and the expected revenue from taxation received by the educational service unit, and from available federal, state, and county sources, ~~from contractual revenue from school districts, and from all other agencies and sources.~~

Sec. 944. Section 79-2210.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2210.02.~~ A summary of the prepared yearly budget of an educational service unit shall be published one time in a legal newspaper published in or of general circulation in each county in the unit at least five days before a meeting at which such budget shall be considered for adoption by the board. Such publication shall also specify the date, time, and place of the public hearing at which the budget will be considered and any tax levy made.

Sec. 945. Section 79-2210.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2210.03.~~ The board of an educational service unit shall cause to be published by November 1 of each year a brief report of the yearly activities of the board. The report shall include the amount of revenue received and expenditures itemized by categories. This publication shall be for one time in a newspaper of general circulation distributed in each county

in the educational service unit. A copy of the report shall be distributed to each member school district by November 1 of each year.

Sec. 946. Section 79-2210.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2210.04-~~ The board of each educational service unit shall cause a complete and comprehensive annual audit to be made of the books, accounts, records, and affairs of the educational service unit. The audits shall be conducted annually, except that the Auditor of Public Accounts may determine an audit of less frequency to be appropriate but not less than once in any three-year period. The board of each educational service unit may contract with the Auditor of Public Accounts or select a licensed public accountant or certified public accountant or firm of such accountants to conduct the audit and shall be responsible for the cost of the audit pursuant to the contract. Such audit shall be conducted in the same manner as audits of county officers. The original copy of the audit shall be filed in the office of the Auditor of Public Accounts.

Sec. 947. Section 79-2212, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2212-~~ Sections ~~79-2201 to 79-2212~~ 919 to 947 of this act shall be supplemental to any other law and shall not affect the reorganization of school districts as provided in the Reorganization of School Districts Act.

Sec. 948. Section 79-2213, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2213-~~ When special education is provided by an educational service unit for handicapped children, as defined in section ~~79-3309~~ 802 of this act, the payments provided by sections ~~79-3315 to 79-3333~~ 808 to 826 of this act shall be made to such educational service unit.

Sec. 949. Section 79-2214, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2214-~~ The governing board of any educational service unit may provide its members with hospitalization, medical, surgical, accident, sickness, or term life insurance coverage or any one or more of such coverages.

Sec. 950. Section 79-2225, Revised Statutes Supplement, 1995, is amended to read:

~~79-2225-~~ Each educational service unit shall provide, in cooperation with the State Department of Education, access for all school districts within the geographical area served by the unit to telecomputing resources through the installation of necessary equipment at each educational service unit location and shall provide support for training users to meet their specific telecomputing needs. Each educational service unit shall also develop, with the State Department of Education, a plan which provides for connecting the telecomputing equipment of such school districts with the telecomputing equipment of the unit. An amount not to exceed the proceeds of one-half of the five-tenths cent on each one hundred dollars of assessed valuation, which may be levied for the purposes of this section under section ~~79-2210~~ 942 of this act, may be used to connect the telecomputing equipment of the school districts to the educational service unit pursuant to the plan adopted by the educational service unit.

The purchase of and planning for equipment and software for the educational service units shall be coordinated by the department and shall be compatible with a statewide plan for telecomputing agreed upon by the Department of Administrative Services and the State Department of Education. Educational service units may enter into agreements pursuant to the Interlocal Cooperation Act to carry out this section. Such agreements may include, but need not be limited to, provisions requiring any school district having telecomputing equipment connected to the educational service unit's telecomputing equipment to pay periodic fees necessary to cover the cost of such usage.

Sec. 951. Section 79-2216, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2216-~~ As used in sections ~~79-2216 to 79-2221~~ For purposes of sections 951 to 956 of this act, unless the context otherwise requires:

(1) Board ~~shall mean means~~ the governing board of any educational service unit;

(2) Certificated employee ~~shall mean means~~ any teacher, nurse, or other person required to have a certificate from the State Department of Education who is employed by an educational service unit;

(3) Just cause ~~shall mean means~~ incompetency, neglect of duty, unprofessional conduct, insubordination, immorality, physical or mental incapacity, or other conduct which interferes substantially with the continued performance of duties or a change in circumstances such as financial exigency

or a diminution of demand for services by the school districts served by the educational service unit necessitating a reduction in the number of teachers or nurses to be employed by the board;

(4) Permanent certificated employee shall mean means a certificated employee (a) who has served under a contract with the educational service unit for at least three successive years under any contract which was entered into to create initial employment on or after September 1, 1986, or (b) who was initially employed by the educational service unit prior to September 1, 1986; and

(5) Probationary certificated employee shall mean means a certificated employee who has served under a contract with the educational service unit for less than three successive years under any contract which was entered into to create initial employment on or after September 1, 1986.

Sec. 952. Section 79-2217, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2217. The contract of a certificated employee shall be deemed renewed and remain in full force and effect unless amended, terminated, or not renewed in accordance with sections 79-2216 to 79-2221 951 to 956 of this act.~~

Sec. 953. Section 79-2218, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2218. (1) Any certificated employee whose contract of employment may be amended, terminated, or not renewed for the following school year shall be notified in writing on or before April 15 of each year of such possible action on the contract. If the certificated employee wishes a hearing, a written request shall be sent to the secretary of the board or the administrator of the educational service unit within seven calendar days after receipt of the written notice. If a hearing on such amendment, termination, or nonrenewal is not requested within the time provided in this section, the board shall make a final determination. With regard to all hearings under sections 79-2216 to 79-2221 951 to 956 of this act, the certificated employee shall be advised in writing at least five days prior to the hearing of the date, time, and place of the hearing. All such hearings shall be held within thirty days of after the date of the request for the hearing, except when the parties or their representatives, by a mutual agreement confirmed in writing, extend the time for hearings or final determinations by the board under sections 79-2216 to 79-2221 such sections. Unless continued by written agreement between the parties or their representatives, final action by the board shall be taken on or before May 15 of each year.~~

(2) Prior to the hearing or action on the matter, if requested by the certificated employee, the notice of possible amendment, termination, or nonrenewal and the supporting reasons shall be considered a confidential employment matter as provided in sections ~~79-4-156 to 79-4-158 and 84-1410 section 84-1410 and sections 292 and 534 of this act~~ and shall not be released to the public or news media.

Sec. 954. Section 79-2219, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2219. The board may on its own behalf, or shall upon the request of the certificated employee, his or her representative, or the educational service unit's administration, (1) subpoena and compel the attendance of witnesses residing within or without outside this state for the purpose of appearing and testifying at any hearing provided for in sections 79-2216 to 79-2221 951 to 956 of this act and for the purpose of taking the deposition of such witnesses in the manner prescribed by law for the taking of depositions in civil actions in the district courts and (2) issue subpoenas for the production of any papers, books, accounts, and documents.~~

Sec. 955. Section 79-2220, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2220. (1) Upon request by the probationary certificated employee as provided in subsection (1) of section 79-2218 953 of this act, notice shall be provided which shall contain written reasons for the proposed amendment or nonrenewal of the probationary certificated employee's contract and shall be sufficiently specific so as to provide such employee the opportunity to prepare a response. The reasons set forth in the notice shall be employment related.~~

(2) The board may elect to amend or not renew the contract of a probationary certificated employee for any reason it deems sufficient if such nonrenewal or amendment is employment related and such nonrenewal or amendment is not for constitutionally impermissible reasons. Such nonrenewal or amendment shall be in accordance with sections ~~79-2216 to 79-2221 951 to 956 of this act~~. Amendment or nonrenewal for reasons of reduction in force shall be in accordance with the procedures provided in sections ~~79-1254-05 to 79-1254-08 and 79-2216 to 79-2221 476 to 479 and 951 to 956 of this act~~.

(3) At any time prior to the holding of a hearing or prior to final determination by the board to amend or not renew the contract involved, the probationary certificated employee may submit a letter of resignation for the ensuing school year, which resignation shall be accepted by the board.

(4) The hearing, if requested, involving the question of the nonrenewal or amendment of a probationary certificated employee's contract shall not be a formal due process hearing, but shall be an informal hearing before the board at which the probationary certificated employee involved or his or her representative shall be afforded the opportunity to discuss and explain to the board his or her position with regard to continued employment, to present information, and to ask questions of those appearing on behalf of the administration of the educational service unit. Such hearing shall be in closed session at the request of the probationary certificated employee involved or his or her representative and upon affirmative vote of the majority of the board members present and voting, but the formal action of the board for nonrenewal or amendment shall be in open session.

(5) The hearing for a probationary certificated employee may be held before a committee of the board consisting of not less than three of the board's total members, and total membership of the committee shall be odd numbered. Notice of such hearing shall be sent to all board members five days prior to such hearing. If a hearing is held before a committee, the majority opinion of the committee shall constitute a recommendation to the board, with the final determination being made by a majority vote of the members of the board without additional hearing.

Sec. 956. Section 79-2221, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2221-~~ (1) The board by a vote of the majority of its members may determine that a permanent certificated employee's contract shall be amended or terminated for any of the following reasons: (a) Just cause as defined in section ~~79-2216~~ 951 of this act; (b) reduction in force as set forth in sections ~~79-1254-05 to 79-1254-08~~ 476 to 479 of this act; (c) a change of leave-of-absence policy; (d) failure of the permanent certificated employee upon written request of the board or the administrators of the educational service unit to accept employment for the next school year within the time designated in the request, except that the permanent certificated employee shall not be required to signify such acceptance prior to March 15 of each year; or (e) revocation, cancellation, suspension, or termination of the permanent certificated employee's certificate by the State Board of Education.

(2) If a hearing is requested by the permanent certificated employee, the formal due process hearing for the purpose of this section ~~shall mean~~ means a hearing procedure adopted by the board which contains at least the following: (a) Notification to the permanent certificated employee in writing at least five days prior to the hearing of the grounds alleged for the termination or amendment of the permanent certificated employee's contract; (b) upon request of the permanent certificated employee, a list of the names of any witnesses who will be called to testify against the certificated employee and an opportunity to examine any documents that will be presented at the hearing shall be provided at least five days prior to the hearing; (c) the right to be represented; and (d) an opportunity to cross-examine all witnesses, examine all documents, and present evidence material to the issues.

(3) Notice of the hearing shall be given in accordance with sections ~~84-1408 to 84-1414~~. Upon an affirmative vote of a majority of the board's members present and voting and upon specific request of the permanent certificated employee or the permanent certificated employee's representative, the hearing shall be conducted in a closed session, but the formal action of the board shall be taken in open session.

(4) A majority of the members of the board shall render its decision to amend or terminate a permanent certificated employee's contract based solely upon the evidence produced at the hearing, shall reduce its findings and determination to writing, and shall deliver a written copy of the findings and determination to the permanent certificated employee.

ARTICLE 13 - EDUCATIONAL TECHNOLOGY AND TELECOMMUNICATIONS  
PART (a) - EDUCATIONAL TECHNOLOGY

Sec. 957. Section 79-4,140.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-08-~~ The State Department of Education shall, when funds are appropriated by the Legislature to carry out this section, in consultation with the Nebraska educational television network, colleges and universities in the state, the educational service units, such other public and private committees and groups as are deemed to have expertise in the field of

educational technology, and the Governor's Policy Research Office, establish a state-level consortium which shall:

(1) Identify, evaluate, and publish a list of high-quality courseware which is available to be used by teachers to supplement curriculum;

(2) Provide guidelines to assist local school districts and educational service units in making decisions regarding:

(a) Acquiring Acquisition of technological hardware, software, and related services;

(b) Training current and prospective staff in the use of educational technology, including, but not limited to, computers, videodiscs, and interactive cable television; and

(c) Utilizing technology in instruction and support services to increase the effectiveness of and individual access to education;

(3) Devise a pilot project program for implementing specific approaches to the use of technology in education;

(4) Develop and maintain an inventory of applications of technology to education in the state and provide for the sharing of the information within the state;

(5) Develop a plan for the orderly introduction of technology in the schools. The plan shall include methods of providing financial support for schools to obtain equipment, modify facilities, train staff, conduct comprehensive need analysis, appropriately share resources, and provide reasonable equality of access to technology by students in all regions of the state; and

(6) Propose the organizational structure of a state educational technology consortium for the purpose of carrying out the ongoing programs described in subdivisions (1) ~~to~~ through (4) of this section.

Sec. 958. Section 79-4,140.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-09-~~ The Legislature hereby finds that the utilization of appropriate technologies can provide enhanced educational services and broadened educational opportunities for Nebraska learners. The Legislature further finds that the state educational technology consortium established in section ~~79-4,140-08~~ 957 of this act has established a plan for the introduction of technologies in the schools. ~~Therefore, it~~ It is the intent of the Legislature: (1) To utilize technology to provide effective and efficient distance learning; (2) to provide assistance and direction in the training of Nebraska teachers in uses of technology for instruction through electronic means; (3) to establish and support an electronic data network and data bases for Nebraska educators and learners; (4) to support the evaluation and dissemination of models of successful technologies which improve instruction or learning; (5) to provide support for cooperative education-technology ventures in partnership with public or private entities; and (6) to provide support for cooperative purchase or leasing of administrative or instructional software or software licenses in partnership with schools, educational service units, and other states.

Sec. 959. Section 79-4,140.10, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-10-~~ There is hereby created an The Educational Technology Center within the State Department of Education and two is created. Two Educational Technology Satellite Centers are created which shall act in partnership with the Educational Technology Center. The mission of the centers ~~shall be is~~ is to achieve the legislative goals set forth in section ~~79-4,140-09~~ 958 of this act and to provide leadership and support for the introduction and integration of technology and innovation into Nebraska elementary and secondary schools in order to provide quality education and equal opportunity for Nebraska learners. One Educational Technology Satellite Center shall be located in the city of North Platte, Nebraska, and one in the city of Scottsbluff, Nebraska.

Sec. 960. Section 79-4,140.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-11-~~ The Educational Technology Center ~~shall have; but not be has, but is not~~ limited to, the following specific duties:

(1) To design, implement, and evaluate a distance learning project, including at least one course transmitted via interactive audio, video, or computer in order to equalize student access and educational opportunities in geographically isolated areas of the state;

(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 public and private educational entities, 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, 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;

(13) To establish an electronic data network and access to appropriate data bases for learners and educators through purchase of necessary hardware, software, and licenses for national data bases. The center shall provide assistance to schools for training communication costs and, through work with Nebraska educators and learners, shall develop state-level data bases; and

(14) To identify, evaluate, and disseminate information on school projects which have the potential to enhance the quality of instruction or learning.

Sec. 961. Section 79-4,140.12, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-12-~~ The state educational technology consortium established in section ~~79-4,140-08~~ 957 of this act shall establish a program to provide grants for model educational technology projects to Nebraska schools and educational service units. The state educational technology consortium shall establish guidelines for such grants, receive applications therefor, and make awards to schools or educational service units for projects which have the greatest potential to enhance the quality of instruction in Nebraska schools or to broaden the educational opportunities for Nebraska learners.

Sec. 962. Section 79-4,140.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-13-~~ The Educational Technology Center shall establish a program to provide funds to support partnerships between the Educational Technology Center and Educational Technology Satellite Centers and educational service units and other public or private agencies or entities for technology projects which have the greatest potential to enhance the quality of instruction in Nebraska schools or to broaden the educational opportunities for Nebraska learners.

Sec. 963. Section 79-4,140.14, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-14-~~ The state educational technology consortium established in section ~~79-4,140-08~~ 957 of this act shall establish a program to provide funds for the cooperative purchase of software or software licenses in partnership with schools, educational ~~services~~ service units, or other states. The funds shall support the Educational Technology Center's share of costs for such purchases. The state educational technology consortium shall establish guidelines for partnership activities, receive applications therefor, and make cooperative purchases for proposals which have the greatest potential to enhance the quality of instruction in Nebraska schools or to broaden the educational opportunities for Nebraska learners.

Sec. 964. Section 79-4,140.20, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140-20-~~ The Educational Technology Satellite Centers shall provide:

(1) A computer and technology laboratory with the hardware appropriate to instructional applications for both teaching and management, including state-of-the-art hardware to the extent appropriate for classroom applications;

(2) A laboratory for the inservice training of educators in hardware

and software applications;

(3) A laboratory for review and evaluation of software;

(4) A laboratory for creating software programs and applications to instruction;

(5) A library of software for review, evaluation, and distribution; and

(6) Technical assistance to educators and school districts in planning for computer implementation, applications of computer-assisted instruction, and individual consultation.

Sec. 965. Section 79-4,140.21, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,140.21-~~ The State Department of Education shall aid in obtaining:

(1) A reciprocal partnership with educational agencies in each community in which an Educational Technology Satellite Center will be located for an appropriate facility and location;

(2) Computer systems with appropriate networking for each satellite center; and

(3) A library of current software, a director, and a modem tie into the computer system of the department for each satellite center.

Sec. 966. Section 79-4,248, Revised Statutes Supplement, 1995, is amended to read:

~~79-4,248-~~ It is the intent of the Legislature that by June 30, 2000, all kindergarten through grade twelve public school districts or affiliated school systems shall have a direct connection to a statewide public computer information network. The costs of such connection may be funded under this section, subsection (2) of section 9-812, section 79-2225 950 of this act, or any combination of such subsection and sections.

The School Technology Fund is created. The fund shall consist of the money transferred to the fund pursuant to section 81-1634 and appropriations made by the Legislature which are received as gifts or grants. The State Board of Education shall authorize the disbursement of the fund as provided in this section. The first priority for the disbursement of the School Technology Fund is the direct connection of each kindergarten through grade twelve public school district or affiliated school system to a statewide public computer information network. Subsequent priorities for disbursement may include, but are not limited to, development of networking capabilities within a district or system, the purchase or installation of equipment, or other telecomputing needs as determined by the State Board of Education. Funds shall be awarded on the basis of need, ability to pay, and the number of buildings in each district or affiliated school system designated by the State Board of Education as suitable for direct connection to a statewide public computer information network. The State Board of Education shall adopt and promulgate rules and regulations to carry out the provisions of this section. Any money in the School Technology 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. 967. Section 79-12,153, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-12,153-~~ (1) In order to derive the fullest benefits from educational telecommunications, to assist with the improvement of elementary and secondary education, to encourage and apply research on human learning, perception, cognition, and instructional design, to encourage and apply any other relevant research to the development and use of technology, and to establish Nebraska as a leader in educational technology and teacher training, teacher training programs in Nebraska shall develop and integrate into their curriculum academic programs which train future teachers in an understanding of the latest information and communications technologies, including, but not limited to, instructional television, instructional computing, film, videodisc, and other telecommunications technologies and in the appropriate uses of such information and technologies in the instructional process. The programs shall make every effort to develop interdisciplinary approaches and are authorized and directed to draw upon techniques and expertise found throughout the public and private sector, including, but not limited to, the State Department of Education, the Nebraska Educational Telecommunications Commission, educational service units, higher education postsecondary educational institutions, and private entities.

(2) By September 1, 1988, all teacher training programs at state postsecondary educational institutions shall report to the Legislature a plan for achieving the intent of subsection (1) of ~~section 79-12,153~~ this section. The plan may be submitted individually or jointly with other teacher training programs in the state. At a minimum, each plan shall include evidence of

agreements arrived at with at least two other entities, either in the public or private sector, to share resources and enhance teacher training programs. Such entities may be located either within or outside the state.

## ARTICLE 13

## PART (b) - EDUCATIONAL TELECOMMUNICATIONS

Sec. 968. Section 79-2106, Revised Statutes Supplement, 1995, is amended to read:

~~79-2106.~~ Sections 79-2101 to 79-2114 968 to 983 of this act shall be known and may be cited as the Nebraska Educational Telecommunications Act.

Sec. 969. Section 79-2101, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2101.~~ The Nebraska Educational Telecommunications Act creates the Nebraska Educational Telecommunications Commission for the purpose of (1) promoting and establishing noncommercial educational telecommunications facilities within the State of Nebraska, (2) providing noncommercial educational telecommunications programs throughout the State of Nebraska by standard broadcast or by closed-circuit transmission, and (3) establishing over a period of time and operating a statewide educational and public radio network and service. The commission shall seek funding from federal, state, foundation, and private sources for capital construction and annual operations. The commission shall also report annually to the Legislature and the Legislature's Education Committee of the Legislature regarding its progress in the development of such a network and service. It is the intent of the Legislature that priority for such network and service shall be given to currently underserved areas.

Sec. 970. Section 79-2106.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2106-01.~~ As used in For purposes of the Nebraska Educational Telecommunications Act, unless the context otherwise requires:

(1) Telecommunications shall include includes statewide public television, statewide closed-circuit educational television, and statewide radio satellite transmission, whether formal or informal;

(2) Formal telecommunications shall mean means programs offered through a telecommunications system by which credits toward an educational degree, certificate, or diploma may be earned; and

(3) Instructional technology shall mean means the organization and use of programs and devices to store, retrieve, process, display, receive, or transmit, by any means, information for the purpose of carrying out educational objectives.

Sec. 971. Section 79-2102, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2102.~~ (1) The Nebraska Educational Telecommunications Commission shall be composed of eleven members, as follows: (a) The Commissioner of Education or his or her designee; (b) the President of the University of Nebraska or his or her designee; (c) a representative of the state colleges; (d) a representative of the community colleges; (e) a representative of private educational institutions of the State of Nebraska; and (f) six members of the general public, none of whom shall be associated with any of the institutions listed in subdivisions (a) through (e) of this subsection and two of whom shall be from each congressional district. No more than four of the members shall be actively engaged in the teaching profession or administration of an educational institution.

(2) The members described in subdivisions (1)(c) through (1)(f) of this section shall be appointed by the Governor with the approval of the Legislature for terms of four years, and the term of the member described in subdivision (1)(d) of this section shall be the same as the term of the member described in subdivision (1)(c) of this section. Vacancies shall be filled by the Governor for the unexpired term. The commission shall be nonpolitical in character, and selection of the members of the commission shall be made on a nonpolitical basis. No member of the commission shall receive any compensation for his or her services. Reimbursement shall be provided for reasonable and necessary expenses incurred in attending scheduled meetings of the commission as provided in sections 81-1174 to 81-1177.

In the event if the Commissioner of Education is unable to attend a commission meeting, the deputy commissioner of education is authorized to act on his or her behalf, and in the event if the President of the University of Nebraska or his or her designee is unable to attend a commission meeting, the Executive Vice President and Provost for academic affairs is authorized to act on his or her behalf.

Sec. 972. Section 79-2103, Reissue Revised Statutes of Nebraska, is

amended to read:

79-2103- The powers and duties of the commission shall be Nebraska Educational Telecommunications Commission are:

(1) To promote and sponsor a noncommercial educational telecommunications network consisting of no fewer than two general originating broadcast production and transmission interconnecting facilities, one of which shall be located in Omaha, to serve a series of interconnecting units throughout the State of Nebraska;

(2) To promote and support locally or state operated operated or state-operated noncommercial educational radio stations with satellite receiving capabilities and improved transmitter coverage by use of the tower sites operated by the commission on July 17, 1986, or other facilities located at the sites of originating stations and to provide other forms of support as necessary as funds become available. Preference shall be given to the support of stations which will operate in areas of the state not served by noncommercial educational radio and to stations operated by educational institutions which incorporate local programming into their instructional programs;

(3) To apply for and to receive and hold such authorizations, licenses, and assignments of channels from the Federal Communications Commission as may be necessary to conduct such educational telecommunications programs by standard broadcast, by closed circuits, or by radio satellite transmission, and to prepare, file, and prosecute before the Federal Communications Commission all applications, reports, or other documents or requests for authorization of any kind necessary or appropriate to achieve the purposes set forth in the Nebraska Educational Telecommunications Act;

(4) To receive gifts and contributions from public and private sources to be expended in providing educational telecommunications facilities and programs;

(5) To acquire real estate and other property as an agency of the State of Nebraska and to hold and use the same for educational telecommunications purposes;

(6) To contract for the construction, repair, maintenance, and operation of telecommunications facilities;

(7) To contract with common carriers, qualified under the laws of the State of Nebraska, to provide interconnecting channels or satellite facilities between broadcasting towers unless it is first determined by the Nebraska Educational Telecommunications Commission that state-owned interconnecting channels can be constructed and operated that would furnish a comparable quality of service at a cost to the state that would be less than if such channels were provided by qualified common carriers;

(8) To contract with future or existing noncommercial radio stations in the State of Nebraska for the purpose of providing programming produced at the national, regional, state, or local level to be transmitted by the state radio network;

(9) To provide for programming for the blind and other print-handicapped persons, as authorized by the Federal Communications Commission under subsidiary communications authority rules, through contracts with appropriate nonprofit corporations or organizations which have been created for such purpose;

(10) To arrange for the operation of a statewide educational telecommunications network, as directed by the Nebraska Educational Telecommunications Commission, consistent with the provisions of the federal Communications Act of 1934, as amended, and applicable rules, regulations, and policies of the Federal Communications Commission, and, insofar as elementary and secondary education programs are concerned, consistent with policies of the State Board of Education;

(11) After taking into consideration the needs of the entire state, to establish general policies relating to the nature and character of educational telecommunications broadcasts or transmissions;

(12) To review, or cause to be reviewed by a person designated by the commission, all programs presented on the network prior to broadcast or transmission to insure that the programs are suitable for viewing and listening. Such suitability shall be determined by evaluating the content of the program, and screening the programs if necessary, as to their educational value and whether they enhance the cultural appreciation of the viewer and listener and do not appeal to his or her prurient interest. When it is obvious from an examination of the descriptive program materials that a program is suitable for presenting on the network, no further review shall be required;

(13) To cooperate with the United States Secretary of Commerce and other federal or state agencies for the purpose of obtaining matching federal

or state funds and providing educational telecommunications facilities of all types throughout the state and to make such reports as may be required of recipients of matching funds;

(14) To arrange for and provide standard broadcast, closed-circuit, and radio satellite transmission noncommercial educational telecommunications programs to Nebraska citizens and institutions, but no tax funds shall be used for program advertising which may only be financed out of funds received from foundations or individual gifts;

(15) To coordinate the activities of all Nebraska agencies, supported in whole or in part by public funds, providing program material for the Nebraska educational telecommunications network and, in the event that two or more such agencies desire to provide program material that is substantially equivalent, to determine which agency shall provide specific material, taking into consideration the need to provide unified programming with the greatest economy and least duplication with first priority being given in program development and scheduling to the instructional needs of the elementary and secondary schools of Nebraska;

(16) To adopt bylaws for the conduct of its affairs;

(17) To make certain that the facilities are not used for any purpose which is contrary to the United States Constitution of the United States or the State Constitution of Nebraska or for broadcasting propaganda or attempting to influence legislation;

(18) To publish such informational material as it deems necessary and it may, at its discretion, charge appropriate fees therefor. The proceeds of all such fees shall be deposited in the State Educational Telecommunications Fund and shall be used by the commission solely for publishing such informational material. The commission shall provide to newspapers, radio stations, and other news media program schedules informing the public of programs approved by the commission; and

(19) To maintain a library of films and videotapes which depict persons who appear to be significant or prominent in Nebraska history and the proceedings of the regular meetings of the Legislature.

Sec. 973. Section 79-2103.01, Revised Statutes Supplement, 1995, is amended to read:

~~79-2103-01-~~ The Nebraska Educational Telecommunications Commission, in consultation with users of its distance learning and telecommunications facilities, networks, and equipment, may establish user fees, penalty fees, or other fees as necessary for and consistent with the efficient and orderly use of its facilities, networks, and equipment.

Sec. 974. Section 79-2104, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2104-~~ The Nebraska Educational Telecommunications Commission is hereby constituted an instrumentality of the State of Nebraska and may sue and be sued by the name Nebraska Educational Telecommunications Commission.

Sec. 975. Section 79-2105, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2105-~~ All telecommunications facilities operated or supervised by the Nebraska Educational Telecommunications Commission shall be operated at all times on a noncommercial basis. Operational and administrative service pertinent to the production and utilization of inclass telecommunications instruction shall be made available to all schools and colleges of Nebraska on the basis of the actual cost of production exclusive of general overhead expense.

Sec. 976. Section 79-2107, Revised Statutes Supplement, 1995, is amended to read:

~~79-2107-~~ There is hereby created a fund to be known as the The State Educational Telecommunications Fund is created. The fund shall to be used by the Nebraska Educational Telecommunications Commission for the purposes of carrying out the provisions of the Nebraska Educational Telecommunications Act. Such fund shall consist of such sums as the Legislature may appropriate. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 977. Section 79-2108, Revised Statutes Supplement, 1995, is amended to read:

~~79-2108-~~ The NEB\*SAT Cash Fund is created. The fund shall be under the direction of the Nebraska Educational Telecommunications Commission. The commission shall remit user fees, penalty fees, nonfederal grant or contract funds, gifts, bequests, equipment purchase fee funds, and any other such fees or payments which are related to NEB\*SAT, distance learning activities and programs, and other telecommunications-related activities to the State Treasurer for credit to the fund. Fees and revenue remitted to and expended

from the fund shall not be considered to be part of the permanent operating equipment budget or construction budget of the commission. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 978. Section 79-2109, Reissue Revised Statutes of Nebraska, is amended to read:

79-2109. The Nebraska Educational Telecommunications Commission is authorized and empowered to acquire in the name of the State of Nebraska real estate by the use of eminent domain, as provided in sections 72-213 to 72-222, for the following purposes:

(1) For stations and tower site with access road:

Part of the southeast quarter of the northeast quarter of section 36, township 22 north, range 50 west of the 6th principal meridian, Morrill County, Nebraska, more particularly described as follows:

Beginning at a point on the east line of the northeast quarter of said section 36, which point is one thousand nine hundred twelve and two-tenths feet south of the northeast corner of said section, and is seven hundred twenty-eight and three-tenths feet north of the southeast corner of said northeast quarter; thence west, at right angles to said east line, for a distance of one hundred forty-nine and one-tenth feet; thence north forty-seven degrees thirty minutes west for a distance of two hundred fifty-four and eighty-five hundredths feet; thence north, parallel with said east line of said section, for a distance of three hundred and zero-tenths feet; thence west, on a line at right angles to said east line, for a distance of three hundred and zero-tenths feet; thence south, parallel with said east line, for a distance of three hundred and zero-tenths feet; thence east on a line at right angles to said east line, for a distance of one hundred fifty-two and zero-tenths feet; thence south forty-seven degrees thirty minutes east for a distance of six hundred fifty-seven and nine-tenths feet more or less, to a point on said east line; thence north on said east line, for a distance of two hundred seventy-two and three-tenths feet, to the point of beginning, comprising an area of three and fifty-eight hundredths acres, more or less, subject to the county road on the east thirty-three and zero-tenths feet of the portion adjoining the section line;

(2) For guy anchors for tower:

Part of the northeast quarter of section 36, township 22 north, range 50 west of the 6th principal meridian, Morrill County, Nebraska, more particularly described as follows:

Beginning at a point on the east line of said northeast quarter, which point is six hundred ninety-five and zero-tenths feet south of the northeast corner thereof; thence west, at right angles to said east line, for a distance of one thousand five hundred ninety and zero-tenths feet; thence south, parallel with said east line, for a distance of one thousand seven hundred forty and zero-tenths feet; thence east, at right angles to said east line, for a distance of one thousand five hundred ninety and zero-tenths feet, to a point on said east line; thence north on said east line of the northeast quarter, for a distance of one thousand seven hundred forty and zero-tenths feet, to the point of beginning; and

(3) For downlink satellite or feed and broadcast facilities.

Sec. 979. Section 79-2110, Reissue Revised Statutes of Nebraska, is amended to read:

79-2110. The State Department of Education shall, with funds specifically appropriated for instructional telecommunications by the Legislature and such other funds which may be available, make provision for the planning, developing, producing, leasing, disseminating, and utilizing of instructional technology in the elementary and secondary schools of Nebraska.

Funds appropriated or acquired for the purpose of providing such programming to the elementary and secondary schools shall make provision for the employment of a director and such additional employees as may be necessary for the State Department of Education to assume the designated responsibilities of instructional technology and to perform the assigned functions in an efficient manner. Funds may be used to contract with organizations designed to plan, produce, and acquire instructional telecommunications programming for elementary and secondary school use. The department may publish or cause to be published, develop or cause to be developed, acquire, and distribute such telecommunications resources as it deems necessary, and it may, at its discretion, charge appropriate fees therefor. The department shall make such resources available at cost to all individuals, schools, private and public institutions, and organizations. The proceeds of all such fees paid to the department shall be deposited in the State Department of Education Cash Fund and shall be used by the department

for publication, development, acquisition, and distribution of such resource material.

The State Department of Education shall adopt and promulgate rules and regulations for approving the type and number of credits for telecommunications courses which are offered to elementary and secondary schools.

Sec. 980. Section 79-2111, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2111-~~ The Commissioner of Education shall appoint a director of instructional telecommunications subject to confirmation by a majority vote of the members of the State Board of Education. The appointment shall be made on the basis of recognized and demonstrated interest in and knowledge of instructional telecommunications. ~~He or she~~ The director of instructional telecommunications shall have a minimum of three years of successful elementary or secondary school experience and shall hold a Nebraska Administrative and Supervisory Certificate.

Sec. 981. Section 79-2112, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2112-~~ The duties and responsibilities of the director of instructional telecommunications ~~shall include, but not be include, but are not~~ limited to, the following:

(1) To administer the elementary and secondary instructional telecommunications responsibilities as provided by law under the direction of the Commissioner of Education;

(2) To act as contract agent for the State Department of Education in instructional telecommunications business;

(3) To provide a liaison between the State Department of Education and educational organizations to which instructional telecommunications has application;

(4) To consult and cooperate with the Nebraska Educational Telecommunications Commission so as to coordinate in an effective manner the transmission of instructional telecommunications programming to elementary and secondary schools;

(5) To consult and cooperate with State Department of Education personnel so as to make the most efficient use of instructional telecommunications within the elementary and secondary curricula and in the improvement of Nebraska education;

(6) To provide for the evaluation of the fulfillment of school needs through instructional telecommunications programming;

(7) To assist in the arrangements ~~whereby~~ by which all Nebraska schools would have access to a minimum of two instructional telecommunications services: One through open circuit, such as the Nebraska educational telecommunications network, and each cable system, which provides educational telecommunications programming other than that simulcast by means of the open circuit; and

(8) To designate such ad hoc committees as may be needed and to charge these committees with special tasks in carrying out assigned responsibilities.

Sec. 982. Section 79-2113, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2113-~~ The Nebraska Educational Telecommunications Commission or its designated representatives shall serve as an advisory committee to the Commissioner of Education and the director of instructional telecommunications on matters pertaining to instructional telecommunications. The members of the advisory committee shall receive no compensation for their services, but may be reimbursed for actual and necessary expenses incurred in attending meetings or incurred in the performance of duties as directed by the State Department of Education as provided in sections 81-1174 to 81-1177, ~~for state employees-~~

Sec. 983. Section 79-2114, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2114-~~ It shall be the duty of the advisory committee to The advisory committee described in section 982 of this act shall:

(1) Assist in the study of needs of the schools and recommend appropriate program development;

(2) Help correlate operations between the Nebraska Educational Telecommunications Commission, the State Department of Education, the program development agencies, and the schools of Nebraska;

(3) Recommend appropriate instructional telecommunications production centers;

(4) Recommend appropriate program agencies for instructional telecommunications planning and development;

(5) Assist in the development of long-range, cooperative plans for

instructional telecommunications in Nebraska;

(6) Assist in developing coordinated broadcast schedules for the available transmission sources;

(7) Submit nominations of candidates for director of instructional telecommunications; and

(8) Consistently keep the State Department of Education adequately informed on technical and transmission capabilities.

#### ARTICLE 14 - FEDERATION OF SCHOOL DISTRICTS

Sec. 984. Section 79-2301, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2301-~~ As used in sections 79-2301 to 79-2317 for purposes of sections 984 to 999 of this act, unless the context otherwise requires:

(1) Associate district ~~shall mean~~ means a school district providing instruction through grade six within its own geographic area and for grades seven to twelve by associating itself with a federation of school districts;

(2) Federation ~~or federation of school districts shall mean~~ means an association of one or more associate districts with a parent district organized under the provisions of such sections; 79-2301 to 79-2317; and

(3) Parent district ~~shall mean~~ means a school district offering instruction in all grades through twelve associated with one or more associate districts.

Sec. 985. Section 79-2302, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2302-~~ One or more associate districts may combine with a parent district for the formation of a federation of school districts when the resulting federation would have initially not less than seventy-five pupils in each grade from seven to twelve and a minimum taxable valuation for purposes of taxation of fifty-seven million two hundred thousand dollars.

Sec. 986. Section 79-2303, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2303-~~ Whenever petitions seeking the establishment of a federation are signed by at least fifty-five percent of the legal voters in any district seeking to become an associate district with a specified proposed parent district, they shall be presented to the county superintendent of the county in which the proposed parent district is located for a determination of the sufficiency of their signatures and their compliance with the provisions of sections ~~79-2301 to 79-2317~~ 984 to 999 of this act. Petitions may be submitted at the same time on behalf of any number of districts seeking to enter the federation as associated districts. Upon receipt of such petitions, the county superintendent shall set a date for hearing ~~thereon~~ which shall be not later than thirty days ~~from the receipt thereof~~ after receipt of the petitions and shall give at least ten days' notice of the time and place thereof of the hearing by publication in one or more newspapers of general circulation throughout each district involved. ~~The county superintendent, and shall also give written notice, by United States mail, of the time and place thereof of the hearing to the board of education and to each school board involved.~~

Sec. 987. Section 79-2304, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2304-~~ If, upon the hearing required by section ~~79-2303~~ 986 of this act, the county superintendent finds that the petitions have been signed by the required number of legal voters and that they otherwise comply with the provisions of sections ~~79-2301 to 79-2317; he~~ 984 to 999 of this act, he or she shall so declare, and shall forward the petitions to the board of education of the proposed parent district for further action.

Sec. 988. Section 79-2305, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2305-~~ The board of education of the proposed parent district shall either reject the petitions or recommend their approval. If the petitions are rejected, no further action shall be taken ~~thereon; on the petitions~~ and the proposed federation shall not be formed. If approval of the petitions is recommended, the board of education shall submit the question of the formation of the proposed federation to the voters of the proposed parent district at the next general election at which members of the board of education are elected or at a special election called for that purpose. If a majority of the persons voting on such issue vote for the proposition, the federation shall be formed and shall commence operating as such on July 1 next following the election. The proposition shall be submitted on the ballot in substantially the following form:

Shall (corporate name of the school district as described in section

~~79-401~~ 154 of this act) enter into a federation of school districts with (corporate names of the school districts as described in section ~~79-401~~ 154 of this act)?

.... For

.... Against

Sec. 989. Section 79-2306, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2306-~~ One or more associate districts may be added to an existing federation at any time in the manner provided for formation of a federation, except that final action on the petitions for such addition may be taken by the board of education of the parent district and it shall not be necessary that the proposition be submitted to the voters.

Sec. 990. Section 79-2307, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2307-~~ (1) An associate district may withdraw from a federation in the manner provided for the formation of a federation, except that a determination by the county superintendent that petitions seeking such withdrawal have been signed by at least fifty-five percent of the legal voters of the district shall authorize the withdrawal, if such petition for withdrawal has been submitted to the board of education of each associate district which participated in the original formation of the federation and the boards of such associate districts approve the withdrawal, and no further action shall be necessary. No such withdrawal shall be effective until the second June 30 following the determination by the county superintendent. All taxes which have been lawfully levied for federation purposes shall be collected and paid into the treasury of the federation as though such withdrawal had not occurred. If, after such withdrawal, the resulting federation would not meet the requirements provided by section ~~79-2302~~ 985 of this act for formation of a federation, the federation shall thereupon be dissolved, otherwise it shall continue without the withdrawn school district.

(2) The parent district may withdraw from, and thereby dissolve, the federation in the manner provided for approval of the petitions for formation of the federation. The question for such withdrawal shall be submitted on the ballot in substantially the following form:

Shall (corporate name of the school district as described in section ~~79-401~~ 154 of this act) withdraw from the Federation of School Districts of ..... County?

.... For withdrawal

.... Against withdrawal

Sec. 991. Section 79-2308, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2308-~~ A federation organized under the provisions of sections ~~79-2301 to 79-2317~~ sections 984 to 999 of this act shall be known as the Federation of School Districts of ..... County, and shall be a body corporate and politic having all the rights, powers, duties, liabilities, and responsibilities and be governed by the laws applicable to school districts of the class of the parent district, except as otherwise specifically provided in sections ~~79-2301 to 79-2317~~ such sections.

Sec. 992. Section 79-2309, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2309-~~ The governing body of the federation shall be a special board of education to be selected from the membership of the board of education of the parent district and the school boards of the associate districts with each to be represented. The number of members to serve on such special board of education, and the number from each group to so serve, shall be determined at a joint meeting of all the boards to be held no later than June 1 prior to the commencement of operations of the federation, which meeting shall be held on the call of the chairman chairperson of the board of education of the parent district. Members of the special board of education to represent the associate districts shall be chosen by the members of the school boards of the associate districts from among their own members. Members to represent the parent district shall be chosen by the board of education from among its own members. Members of such special board of education shall serve for a ~~term~~ terms of two years, except that no member shall continue to serve on such special board unless he or she also continues to serve on the board of the parent or an associate district. Successors to the members of such special board shall be selected in the same manner as the initial members were selected.

Sec. 993. Section 79-2310, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2310-~~ (1) Following the establishment of a federation, the governing body of each district included therein in the federation shall

continue to have sole responsibility for its own educational program through grade six, except that the school boards of the associate districts shall consult with the board of education of the parent district in order to coordinate the programs of the various districts to the end that, as nearly as may be practicable, all children entering grade seven in the federation shall have similar educational backgrounds.

(2) Following the establishment of a federation, the special board of education provided for in section 79-2309 992 of this act shall have sole responsibility for the educational program of the federation for grades seven to twelve.

Sec. 994. Section 79-2311, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2311-~~ (1) Each member district of a federation shall continue to have sole responsibility for providing all facilities within its boundaries, including transportation if furnished, for all grades through grade six.

(2) The federation, acting through the special board of education provided for in section 992 of this act, shall have sole responsibility, except as otherwise provided in sections 79-2301 ~~to 79-2317~~ 984 to 999 of this act, for providing all facilities within its boundaries, including transportation if furnished, for all grades seven to twelve.

Sec. 995. Section 79-2312, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2312-~~ Budget procedures of associate districts shall be unaffected by the provisions of sections 79-2301 ~~to 79-2317~~ 984 to 999 of this act.

Sec. 996. Section 79-2313, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2313-~~ The budget procedures of the parent district shall be modified such that two budgets and the necessary financial records related to each budget shall be prepared and maintained. The first budget shall provide for all costs related to the educational program for all grades through grade six and shall be submitted for approval to the board of education of the parent district. The resulting tax levy shall be certified to the county treasurer for collection in the manner provided by law for certification and collection of taxes for the parent district. The second budget shall provide for all costs related to the educational programs for all grades seven to twelve.

In preparing such budget, there may be included depreciation at not to exceed three percent per year on facilities furnished solely by the parent district for federation purposes. Such budget shall be submitted for approval to the board of education of the federation of school districts. The funds required by such budget shall be raised by a tax levy on all taxable property within the federation, which levy shall be uniform throughout the federation. Such levy shall be certified to the county treasurer or treasurers for collection in the manner provided by law for certification and collection of taxes for the parent district. The proceeds of such tax shall be deposited in the treasury of the county in which the parent district is located and shall be there maintained as a separate fund which shall be disbursed solely on proper vouchers of the special board of education.

Sec. 997. Section 79-2314, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2314-~~ Each district shall continue to have sole responsibility for all principal and interest on its outstanding obligations.

Sec. 998. Section 79-2315, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2315-~~ Any new bonded indebtedness necessary to provide facilities for grades seven to twelve shall be incurred in accordance with statutes pertaining to school bonds for Class III school districts. Such and such indebtedness shall be a general obligation of the entire federation, and the levy for payment of principal and interest thereof shall be determined accordingly. Any property which is part of the federation at the time any such indebtedness is incurred shall remain subject thereto until such indebtedness is fully paid.

Sec. 999. Section 79-2317, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2317-~~ The portion of school funds allocated under the Tax Equity and Educational Opportunities Support Act to any district which is a member of a federation shall be apportioned by the county superintendent between such district and the federation in the same proportions as the number of pupils such district has in actual attendance in all grades through six is to the number of pupils such district has in actual attendance in grades seven to twelve in facilities of the federation.

## ARTICLE 15 - COMPACT FOR EDUCATION

Sec. 1000. Section 79-2501, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2501-~~ The Compact for Education is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

## COMPACT FOR EDUCATION

## Article I. Purpose and Policy.

SECTION A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

SECTION B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.

SECTION C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

## Article II. State Defined.

As used in this Compact, "State" means a State, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

## Article III. The Commission.

SECTION A. The Education Commission of the States, hereinafter called "the Commission," is hereby established. The Commission shall consist of seven members representing each party State. One of such members shall be the Governor; two shall be members of the State legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. If the laws of a State prevent legislators from serving on the Commission, six members shall be appointed and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the State education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party States, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

SECTION B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the Commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to

such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the Executive Director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III (j).

SECTION C. The Commission shall have a seal.

SECTION D. The Commission shall elect annually, from among its members, a chairman, who shall be a Governor, a vice chairman and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.

SECTION E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.

SECTION F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

SECTION G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

SECTION H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

SECTION I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Party States.

SECTION J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

#### Article IV. Powers.

In addition to authority conferred on the commission by other provisions of the compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

3. Develop proposals for adequate financing of education as a whole and at each of its many levels.

4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

#### Article V. Cooperation With Federal Government.

SECTION A. If the laws of the United States specifically so provide,

or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representatives shall have a vote on the Commission.

SECTION B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the States, and may advise with any such agencies or officers concerning any matter of mutual interest.

#### Article VI. Committees.

SECTION A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-fourth of the voting membership of the steering committee shall consist of Governors, one-fourth shall consist of Legislators, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the Commission shall be elected as follows: sixteen for one year and sixteen for two years. The chairman, vice chairman, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

SECTION B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to two or more of the party States.

SECTION C. The Commission may establish such additional committees as its bylaws may provide.

#### Article VII. Finance.

SECTION A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.

SECTION B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.

SECTION C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III (g) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III (g) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

SECTION D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.

SECTION E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

SECTION F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article VIII. Eligible Parties; Entry Into and Withdrawal.

SECTION A. This compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a Governor, the term "Governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

SECTION B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

SECTION C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his State a party only until December 31, 1967. During any period when a State is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the Commission from his State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him.

SECTION D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C of this Article, any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

Article IX. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the State affected as to all severable matters.

Sec. 1001. Section 79-2502, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2502-~~ There is hereby established the Nebraska Education Council composed of the members of the Education Commission of the States representing this state, and six other persons appointed by the Governor for terms of three years. Such other persons shall be selected so as to be broadly representative of professional and lay interest within this state having the responsibilities for, knowledge with respect to, and interest in educational matters. The ~~Chairman~~ chairperson shall be designated by the Governor from among its members. The council shall meet on the call of its ~~chairman~~ chairperson or at the request of a majority of its members, but in any event the council shall meet not less than three times in each year. The council may consider any and all matters relating to recommendations of the Education Commission of the States and the activities of the members in representing this state thereon.

Sec. 1002. Section 79-2503, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2503-~~ Pursuant to Article III (i) of the Compact for Education, the Education Commission of the States shall file a copy of its bylaws and any amendment thereto with the Governor.

Sec. 1003. Section 79-2504, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-2504-~~ The provisions of Article III, SECTION A., of the Compact for Education notwithstanding, the members of the Education Commission of the States representing this state shall consist of the Governor, three members of the Legislature selected by the Executive Board of the Legislative Council, and three members appointed by the Governor. Of the three members appointed by the Governor, one member shall be a member of a school board or board of education of a Class II, III, IV, V, or VI school district or an appointed representative of a state association of school boards or boards of education representing such districts.

## ARTICLE 16 - PRIVATE, DENOMINATIONAL, AND PAROCHIAL SCHOOLS

Sec. 1004. Section 79-1701, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1701.~~ (1) All Except as provided in subsections (2) through (5) of this section, all private, denominational, and parochial schools in the State of Nebraska, and all teachers employed or giving instruction therein, in such schools shall be subject to and governed by the provisions of the general school laws of the state so far as the same apply to grades, qualifications, and certification of teachers and promotion of pupils. All private, denominational, and parochial schools shall have adequate equipment and supplies, and shall be graded the same, and shall have courses of study for each grade conducted therein, in such schools substantially the same as those given in the public schools where the children attending would attend in the absence of such private, denominational, or parochial schools.

(2) All private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in section 146 of this act or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in section 146 of this act and subsections (2) through (5) of this section. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through (5) of this section, not to meet state accreditation or approval requirements shall be based upon evidence that such schools offer a program of instruction leading to the acquisition of basic skills in the language arts, mathematics, science, social studies, and health. Such rules and regulations may include a provision for the visitation of such schools and regular achievement testing of students attending such schools in order to insure that such schools are offering instruction in the basic skills listed in this subsection. Any arrangements for visitation or testing shall be made through a parent representative of each such school. The results of such testing may be used as evidence that such schools are offering instruction in such basic skills but shall not be used to measure, compare, or evaluate the competency of students at such schools.

~~(2)~~ (3) The provisions of subsections (2) to (4) (3) through (5) of this section shall apply to any private, denominational, or parochial school in the State of Nebraska which elects not to meet state accreditation or approval requirements. Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education signed by the parents or legal guardians of all children attending such private, denominational, or parochial school, stating that (a) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education violate sincerely held religious beliefs of the parents or legal guardians, (b) an authorized representative of such parents or legal guardians will at least annually submit to the Commissioner of Education the information necessary to prove that the requirements of subdivisions (i) to (iii) of this subsection are satisfied, (c) the school offers the courses of instruction required by this subsection and section 79-328 subsections (2) and (3) of this section, and (d) the parents or legal guardians have satisfied themselves that individuals monitoring instruction at such school are qualified to monitor instruction in the basic skills as required by this subsection and section 79-328 subsections (2) and (3) of this section and that such individuals have demonstrated an alternative competency to monitor instruction or supervise children pursuant to subsections (2) to (4) (3) through (5) of this section. Each such school shall (i) meet minimum requirements relating to health, fire, and safety standards prescribed by state law and the rules and regulations of the State Fire Marshal, (ii) report attendance pursuant to section 79-201 5 of this act, and (iii) maintain a sequential program of instruction designed to lead to basic skills in the language arts, mathematics, science, social studies, and health. The State Board of Education shall establish procedures for receiving information and reports required by subsections (2) to (4) (3) through (5) of this section from authorized parent representatives who may act as agents for parents or legal guardians of students attending such school and for individuals monitoring instruction in the basic skills required by this subsection.

~~(3)~~ (4) Individuals employed by schools which elect not to meet

state accreditation or approval requirements shall not be required to meet the certification requirements prescribed in Chapter 79, article 12, sections 431 to 446 of this act but shall either (a) take appropriate subject matter components of a nationally recognized teacher competency examination designated by the State Board of Education as (1) including the appropriate subject matter areas for purposes of satisfying the requirements of subsection (2) (3) of this section and (ii) a nationally recognized examination or (b) offer evidence of competence to provide instruction in the basic skills required by subsection (2) (3) of this section pursuant to informal methods of evaluation which shall be developed by the State Board of Education. Such evidence may include educational transcripts, diplomas, and other information regarding the formal educational background of such individuals. Information concerning test results, transcripts, diplomas, and other evidence of formal education may be transmitted to the State Department of Education by authorized representatives of parents or legal guardians. The results of such testing or alternative evaluation of individuals who monitor the instruction of students attending such schools may be used as evidence of whether or not such schools are offering adequate instruction in the basic skills prescribed in subsection (2) subsections (2) and (3) of this section and in section 79-328, but shall not be used to prohibit any such school from employing such individuals. Failure of a monitor, who is tested for the purpose of satisfying in whole or in part the requirements of subsections (2) to (4) (3) through (5) of this section, to attain a score equal to or exceeding both the state or national average score or rating on appropriate subject matter components of recognized teacher competency examinations designated by the State Board of Education may be by itself sufficient proof that such school does not offer adequate instruction in the basic skills prescribed in subsection (2) (3) of this section.

(4) (5) The demonstration of competency to monitor instruction in a private, denominational, or parochial school which has elected not to meet state accreditation or approval requirements shall in no way constitute or be construed to grant a license, permit, or certificate to teach in the State of Nebraska. Any school which elects not to meet state accreditation or approval requirements and does not meet the requirements of subsections (2) to (4) (2) through (5) of this section shall not be deemed a school for purposes of section 79-201 5 of this act, and the parents or legal guardians of any children attending such school shall be subject to prosecution pursuant to such section 79-201 or any statutes relating to habitual truancy.

Sec. 1005. Section 79-1701.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1701.01. Any person who, as an authorized representative of a parent or legal guardian, transmits information required by subsections (2) to (4) of section 79-1701 subsections (3) through (5) of section 1004 of this act knowing such information to be false shall be guilty of a Class IIIA misdemeanor.

Any person who knowingly gives false information to an authorized representative of a parent or legal guardian, knowing that such information is intended to be transmitted to the State Board of Education, shall be guilty of a Class IIIA misdemeanor.

Sec. 1006. Section 79-1703, Reissue Revised Statutes of Nebraska, is amended to read:

79-1703. Nothing contained in sections 79-1701 to 79-1704 contained 1004 to 1010 of this act shall be so construed as to interfere with religious instruction in any private, denominational, or parochial school.

Sec. 1007. Section 79-1704, Reissue Revised Statutes of Nebraska, is amended to read:

79-1704. For the purposes of sections 79-1701 to 79-1704 1004 to 1010 of this act, the owner or governing board of any private, denominational, or parochial school shall have authority to select and purchase textbooks, equipment, and supplies, to employ teachers, and to have and exercise the general management of the school, subject to the provisions of said such sections.

Sec. 1008. Section 79-1705, Reissue Revised Statutes of Nebraska, is amended to read:

79-1705. The county superintendent of schools in first-class Class I school districts, or the superintendent of schools in all other districts, where any private, denominational, or parochial school is located and is not otherwise inspected by an area or diocesan representative holding either a Nebraska Administrative and Supervisory Certificate or a Nebraska Professional Administrative and Supervisory Certificate, is located, shall inspect such schools and report to the proper officers any evidence of failure to observe any of the provisions of sections 79-1701 to 79-1707; PROVIDED, that the 1004

to 1010 of this act. The Commissioner of Education, when in his or her judgment it is deemed advisable, may appoint a public school official other than the above such superintendent, including a member of the State Department of Education, for such inspections. Such appointee shall hold either a Nebraska Administrative and Supervisory Certificate or a Nebraska Professional Administrative and Supervisory Certificate. The State Board of Education shall require the several county superintendents and superintendents of schools and appointed public school officials to make such inspections at least twice a year, and the school officers of such schools and the teachers giving instruction therein are required to in such schools shall permit such inspection and assist and cooperate in the making of the same.

Sec. 1009. Section 79-1706, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1706.~~ In case any private, denominational, or parochial school, after a final determination by the proper authorities under sections 79-1701 to 79-1706 1004 to 1010 of this act, fails, refuses, or neglects to conform to and comply therewith with such sections, no person shall be granted or allowed a certificate to teach therein, in such school and the pupils attending such school or schools shall be required to attend the public school of the proper district as provided by law in like manner as though there were no such private, denominational, or parochial school. Full credit for certification under the law shall be given all teachers who have taught in private, denominational, or parochial schools the same as though they had taught in public schools.

Sec. 1010. Section 79-1707, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-1707.~~ Any person violating any of the provisions of sections 79-1701 to 79-1706 1004 to 1009 of this act shall be guilty of a Class III misdemeanor.

#### ARTICLE 17 - STATUTORY CONSTRUCTION

Sec. 1011. Section 79-4,240, Reissue Revised Statutes of Nebraska, is amended to read:

~~79-4,240.~~ Any acts and proceedings undertaken or funds appropriated in accordance with and pursuant to Laws 1991, LB 511, and prior to April 16, 1992, are hereby deemed undertaken pursuant to Laws 1992, LB 245, legalized, and validated if in compliance with Laws 1991, LB 511.

Sec. 1012. It is the intent of the Legislature that the provisions of sections 1 to 1013 of this act constitute a recodification of Chapter 79 of the Revised Statutes of Nebraska. The purpose of this legislative bill is to reorganize the laws within Chapter 79 and to modernize terminology. Sections 1 to 1013 of this act should not be construed to change the meaning, intent, application, or effect of any provision in Chapter 79 as such existed prior to the effective date of this act. Article names and part names printed in this legislative bill are for informational purposes only and are not part of the law.

Sec. 1013. Any reference to a Chapter 79 section number contained in rules and regulations adopted and promulgated prior to the effective date of this act shall be deemed to refer to the section in this legislative bill containing the referenced provisions without requiring any revision of the rules or regulations, regardless of the section number assigned to such section as part of the codification process.

#### HARMONIZING SECTIONS

Sec. 1014. Section 2-4722, Reissue Revised Statutes of Nebraska, is amended to read:

2-4722. Members of the authority shall not be liable to the state, to the authority, or to any other person as a result of their activities, whether ministerial or discretionary, as authority members, except for willful dishonesty or intentional violations of law. ~~Neither members~~ Members of the authority ~~nor~~ and any person executing bonds or policies of insurance shall not be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The authority may purchase liability insurance for members, officers, and employees and may indemnify any authority member to the same extent that a school district may indemnify a school board member pursuant to section 79-4,155 269 of this act.

Sec. 1015. Section 9-812, Revised Statutes Supplement, 1995, is amended to read:

9-812. (1) All money received from the operation of lottery games conducted pursuant to the State Lottery Act in Nebraska shall be deposited in

the State Lottery Operation Trust Fund, which fund is hereby created. All payments of expenses of the operation of the lottery games shall be made from the State Lottery Operation Cash Fund. In accordance with legislative appropriations, money for payments for expenses of the division shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Operation Cash Fund, which fund is hereby created. All money necessary for the payment of lottery prizes shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Prize Trust Fund, which fund is hereby created. The amount used for the payment of lottery prizes shall not be less than forty percent of the dollar amount of the lottery tickets which have been sold. Of the money remaining after the payment of prizes and operating expenses, the State Treasurer shall transfer from the State Lottery Operation Trust Fund to the General Fund an amount equal to the initial appropriation to the State Lottery Operation Trust Fund with interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted. After the General Fund is repaid, at least twenty-five percent of the dollar amount of the lottery tickets which have been sold on an annualized basis shall be transferred to the Education Innovation Fund, the Solid Waste Landfill Closure Assistance Fund, the Nebraska Environmental Trust Fund, and the Compulsive Gamblers Assistance Fund. Forty-nine and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Education Innovation Fund. Beginning on July 15, 1993, and continuing through July 1, 1997, twenty-four and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Solid Waste Landfill Closure Assistance Fund and twenty-five percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act. After July 1, 1997, forty-nine and one-half percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act. One percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Compulsive Gamblers Assistance Fund to be used as provided in sections 83-162.01 to 83-162.04.

(2) The Education Innovation Fund is hereby created. Each fiscal year beginning with fiscal year 1994-95, at least seventy-five percent of the lottery proceeds allocated to the Education Innovation Fund shall be available for disbursement. The Education Innovation Fund shall be allocated by the Governor through incentive grants to encourage the development of strategic school improvement plans by school districts for accomplishing high performance learning and to encourage schools to establish innovations in programs or practices that result in restructuring of school organization, school management, and instructional programs which bring about improvement in the quality of education. Such grants are intended to provide selected school districts, teachers or groups of teachers, nonprofit educational organizations, educational service units, or cooperatives funding for the allowable costs of implementing pilot projects and model programs.

Minigrants shall be available to school districts to support the development of strategic school improvement plans which shall include statements of purposes and goals for the districts. The plans shall also include the specific statements of improvement or strategic initiatives designed to improve quality learning for every student.

Major competitive grants shall be available to support innovative programs which are directly related to the strategic school improvement plans. The development of a strategic school improvement plan by a school district shall be required before a grant is awarded. Annual reports shall be made by program recipients documenting the effectiveness of the program in improving the quality of education as designed in the strategic school improvement plans. Special consideration shall be given to plans which contain public or private matching funds and cooperative agreements, including agreements for in-kind services. Purposes for which incentives would be offered shall include:

(a) Professional staff development programs to provide funds for teacher and administrator training and continuing education to upgrade teaching and administrative skills;

(b) The development of strategic school improvement plans by school districts;

(c) Educational technology assistance to public schools for the purchase and operation of computers, telecommunications equipment and services, and other forms of technological innovation which may enhance classroom teaching, instructional management, and districtwide administration pursuant to the state's goal of ensuring that all kindergarten through grade

twelve public school districts or affiliated school systems have a direct connection to a statewide public computer information network by June 30, 2000. The telecomputing equipment and services needed to meet this goal may be funded under this subsection, section 79-4,248, section 79-2225, 950 of this act, section 966 of this act, or any combination of such subsection and sections. Such telecommunications equipment, services, and forms of technical innovation shall be approved by the State Department of Education in consultation with the Department of Administrative Services to insure compatibility of technologies and compliance with statewide priorities;

(d) An educational accountability program to develop an educational indicators system to measure the performance and outcomes of public schools and to ensure efficiency in operations;

(e) Alternative programs for students, including underrepresented groups, at-risk students, and dropouts;

(f) Programs that demonstrate improvement of student performance against valid national and international achievement standards;

(g) Early childhood and parent education which emphasizes child development;

(h) Programs using decisionmaking models that increase involvement of parents, teachers, and students in school management;

(i) Increased involvement of the community in order to achieve increased confidence in and satisfaction with its schools;

(j) Development of magnet or model programs designed to facilitate desegregation;

(k) Programs that address family and social issues impairing the learning productivity of students;

(l) Programs enhancing critical and higher-order thinking capabilities;

(m) Programs which produce the quality of education necessary to guarantee a competitive work force;

(n) Programs designed to increase productivity of staff and students through innovative use of time;

(o) Training programs designed to benefit teachers at all levels of education by increasing their ability to work with educational technology in the classroom; and

(p) Approved programs or services under sections 79-4001 to 79-4004 788 to 791 of this act.

The Governor shall establish the Excellence in Education Council. The Governor shall appoint eleven members to the council including representatives of educational organizations, postsecondary educational institutions, the business community, and the general public, members of school boards and parent education associations, school administrators, and at least four teachers who are engaged in classroom teaching. The State Department of Education shall provide staff support for the council. The council shall have the following powers and duties:

(i) In consultation with the State Department of Education, develop and publish criteria for the awarding of grants for programs pursuant to this subsection;

(ii) Provide recommendations to the Governor regarding the selection of projects to be funded and the distribution and duration of project funding;

(iii) Establish standards, formats, procedures, and timelines for the successful implementation of approved programs funded by the Education Innovation Fund;

(iv) Assist school districts in determining the effectiveness of the innovations in programs and practices and measure the subsequent degree of improvement in the quality of education;

(v) Consider the reasonable distribution of funds across the state and all classes of school districts; and

(vi) Provide annual reports to the Governor concerning programs funded by the fund. Each report shall include the number of applicants and approved applicants, an overview of the various programs, objectives, and anticipated outcomes, and detailed reports of the cost of each program.

To assist the council in carrying out its duties, the State Board of Education shall, in consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of programs funded from the Education Innovation Fund.

(3) Recipients of grants from the Education Innovation Fund shall be required to provide, upon request, such data relating to the funded programs and initiatives as the Governor deems necessary.

(4) Any money in the State Lottery Operation Trust Fund, the State Lottery Operation Cash Fund, the State Lottery Prize Trust Fund, or the

Education Innovation 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.

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

Sec. 1016. Section 10-209, Reissue Revised Statutes of Nebraska, is amended to read:

10-209. Except as otherwise expressly specified by statute or the ordinance, resolution, or instrument authorizing the issuance of any bond or interest coupon mentioned in this section, whenever a bond or an interest coupon appertaining thereto issued by a county, city, village, school district, irrigation district, or other municipal or public corporation or political subdivision of the State of Nebraska is presented for payment to the county treasurer, city treasurer, or other person or corporation designated as the paying agent and there is not sufficient money to pay the same in the fund out of which such bond or coupon is payable, the county treasurer, city treasurer, or other person or corporation designated by law as the paying agent shall register such bond or coupon in a book kept by him or her for that purpose. No such bond or coupon shall be presented or registered prior to its maturity date. Each such bond or coupon so registered shall be registered in order of its presentation for payment, and in the event that several of such bonds or coupons are presented for payment simultaneously, such bonds or coupons shall be registered in accordance with the numbers assigned to such bonds at the time of their issue or in accordance with the numbers assigned to the bonds to which such coupons appertain at the time of their issue. Thereafter money coming into such fund shall be applied to payment of such bonds or interest coupons, as the case may be, in the order of their registration. The county treasurer, city treasurer, or other person or corporation designated by law as the paying agent shall keep a record of such registrations showing the time, date, and serial number of each registration, the name of the county, city, village, irrigation district, or other municipal or public corporation or political subdivision of the state or the corporate name of the school district as described in section 79-401 154 of this act issuing such bond or coupon, the date, kind, and serial number of such registered bond and of the bond to which each registered coupon appertains, the maturity date, the principal amount of the bond or coupon so registered, and the name and address of the person presenting such bond or coupon for payment. On the back of each of such bonds or coupons, the county treasurer, city treasurer, or other person or corporation designated by law as the paying agent shall enter the word Registered with the time, date, and serial number of such registration and return such bond or coupon to the person who has so presented the same for payment. All such bonds and coupons shall contain a provision fixing the rate of interest they shall bear after due if the paying agent does not have sufficient money to pay such bonds or coupons on the due date thereof, but if any such bonds or coupons shall not contain such provision, such bonds or coupons shall bear interest at the rate of nine percent per annum from due date until the paying agent has funds to pay such bonds or coupons and interest thereon.

Sec. 1017. Section 13-501, Revised Statutes Supplement, 1994, is amended to read:

13-501. Sections 2-958, 3-504, 12-914, 13-501 to 13-513, 13-515, 16-702, 16-706, 16-718, 17-702, 17-703, 17-708, 17-711, 17-715, 17-718, 18-1006, 19-1302, 23-132, 23-904, 23-920, 23-3519, 23-3552, 31-513, 35-509, 39-1621, 39-1634, 46-543, 46-544, 51-316, and 71-1611, ~~79-435, 79-1007-02, and 79-2210~~ and sections 729, 772, and 942 of this act shall be known and may be cited as the Nebraska Budget Act.

Sec. 1018. Section 13-508, Revised Statutes Supplement, 1995, is amended to read:

13-508. After publication and hearing thereon and within the time prescribed by law, each governing body shall file with and certify to the levying board on or before September 20 of each year and file with the auditor a copy of the adopted statement of the amount for reimbursement of property taxes pursuant to subsection (2) of section 13-504 and the adopted budget statement which complies with sections 77-3438 to 77-3440 or ~~79-3814 to 79-3821~~ sections 669 to 676 of this act, together with the amount of the tax to be levied. Proof of publication shall be attached to the statements. The governing body shall certify the amount of tax to be levied by the levying board, which levy shall not exceed the maximum levy prescribed by state law. The governing body, in certifying the amount to be so levied, may make

allowance for delinquent taxes not exceeding five percent of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, a governing body shall not certify, nor a levying board levy, an amount of tax greater than the amount determined under section 13-505. Each governing body empowered to levy or certify a levy shall use the final adjusted values as provided by the county assessor pursuant to section 13-509 for the current year in setting or certifying the levy. Each governing body may designate one of its members to perform any duty or responsibility required of such body by this section.

Sec. 1019. Section 13-903, Reissue Revised Statutes of Nebraska, is amended to read:

13-903. For purposes of the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, ~~and 79-489~~ and section 371 of this act, unless the context otherwise requires:

(1) Political subdivision shall include villages, cities of all classes, counties, school districts, public power districts, and all other units of local government, including entities created by local public agencies pursuant to the Interlocal Cooperation Act. Political subdivision shall not be construed to include any contractor with a political subdivision;

(2) Governing body shall mean the village board of a village, the city council of a city, the board of commissioners or board of supervisors of a county, the board of directors of a public power district, the governing board or other governing body of an entity created by local public agencies pursuant to the Interlocal Cooperation Act, and any duly elected or appointed body holding the power and authority to determine the appropriations and expenditures of any other unit of local government;

(3) Employee of a political subdivision shall mean any one or more officers or employees of the political subdivision or any agency of the subdivision and shall include members of the governing body, duly appointed members of boards or commissions when they are acting in their official capacity, volunteer firefighters, and volunteer rescue squad personnel. Employee shall not be construed to include any contractor with a political subdivision; and

(4) Tort claim shall mean any claim against a political subdivision for money only on account of damage to or loss of property or on account of personal injury or death, caused by the negligent or wrongful act or omission of any employee of the political subdivision, while acting within the scope of his or her office or employment, under circumstances in which the political subdivision, if a private person, would be liable to the claimant for such damage, loss, injury, or death but shall not include any claim accruing before January 1, 1970.

Sec. 1020. Section 13-904, Reissue Revised Statutes of Nebraska, is amended to read:

13-904. Authority is hereby conferred upon the governing body of any political subdivision to consider, ascertain, adjust, compromise, settle, determine, and allow any tort claim as defined in ~~sections 13-901 to 13-926, the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489~~ and section 371 of this act.

Sec. 1021. Section 13-905, Reissue Revised Statutes of Nebraska, is amended to read:

13-905. All tort claims under ~~sections 13-901 to 13-926, the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489~~ and section 371 of this act shall be filed with the clerk, secretary, or other official whose duty it is to maintain the official records of the political subdivision, or the governing body of a political subdivision may provide that such claims may be filed with the duly constituted law department of such subdivision. It shall be the duty of the official with whom the claim is filed to present the claim to the governing body. All such claims shall be in writing and shall set forth the time and place of the occurrence giving rise to the claim and such other facts pertinent to the claim as are known to the claimant.

Sec. 1022. Section 13-906, Reissue Revised Statutes of Nebraska, is amended to read:

13-906. No suit shall be permitted under ~~sections 13-901 to 13-926, the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489~~ and section 371 of this act unless the governing body of the political subdivision has made final disposition of the

claim, except that if the governing body does not make final disposition of a claim within six months after it is filed, the claimant may, by notice in writing, withdraw the claim from consideration of the governing body and begin suit under sections 13-901 to 13-926, 16-727, 16-728, 23-175, 39-809, and 79-489 such act and sections.

Sec. 1023. Section 13-907, Reissue Revised Statutes of Nebraska, is amended to read:

13-907. Jurisdiction, venue, procedure, and rights of appeal in all suits brought under sections 13-901 to 13-926, the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act shall be determined in the same manner as if the suits involved private individuals, except that such suits shall be heard and determined by the appropriate court without a jury.

Sec. 1024. Section 13-909, Reissue Revised Statutes of Nebraska, is amended to read:

13-909. Final judgment in any suit under sections 13-901 to 13-926, the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the political subdivision whose act or omission gave rise to the claim, but ~~PROVIDED~~, this section shall not apply if the court rules that the claim is not permitted under sections 13-901 to 13-926, 16-727, 16-728, 23-175, 39-809, and 79-489 such act and sections.

Sec. 1025. Section 13-910, Revised Statutes Supplement, 1994, is amended to read:

13-910. The Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act shall not apply to:

(1) Any claim based upon an act or omission of an employee of a political subdivision, exercising due care, in the execution of a statute, ordinance, or officially adopted resolution, rule, or regulation, whether or not such statute, ordinance, resolution, rule, or regulation is valid;

(2) Any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of the political subdivision or an employee of the political subdivision, whether or not the discretion is abused;

(3) Any claim based upon the failure to make an inspection or making an inadequate or negligent inspection of any property other than property owned by or leased to such political subdivision to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety unless the political subdivision had reasonable notice of such hazard or the failure to inspect or inadequate or negligent inspection constitutes a reckless disregard for public health or safety;

(4) Any claim based upon the issuance, denial, suspension, or revocation of or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, or order;

(5) Any claim arising with respect to the assessment or collection of any tax or fee or the detention of any goods or merchandise by any law enforcement officer;

(6) Any claim caused by the imposition or establishment of a quarantine by the state or a political subdivision, whether such quarantine relates to persons or property;

(7) Any claim arising out of assault, battery, false arrest, false imprisonment, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(8) Any claim by an employee of the political subdivision which is covered by the Nebraska Workers' Compensation Act;

(9) Any claim arising out of the malfunction, destruction, or unauthorized removal of any traffic or road sign, signal, or warning device unless it is not corrected by the political subdivision responsible within a reasonable time after actual or constructive notice of such malfunction, destruction, or removal. Nothing in this subdivision shall give rise to liability arising from an act or omission of any political subdivision in placing or removing any traffic or road signs, signals, or warning devices when such placement or removal is the result of a discretionary act of the political subdivision;

(10) Any claim arising out of snow or ice conditions or other temporary conditions caused by nature on any highway as defined in section 60-624, bridge, public thoroughfare, or other public place due to weather conditions. Nothing in this subdivision shall be construed to limit a political subdivision's liability for any claim arising out of the operation

of a motor vehicle by an employee of the political subdivision while acting within the course and scope of his or her employment by the political subdivision;

(11) Any claim arising out of the plan or design for the construction of or an improvement to any highway as defined in such section or bridge, either in original construction or any improvement thereto, if the plan or design is approved in advance of the construction or improvement by the governing body of the political subdivision or some other body or employee exercising discretionary authority to give such approval; or

(12) Any claim arising out of the alleged insufficiency or want of repair of any highway as defined in such section, bridge, or other public thoroughfare. Insufficiency or want of repair shall be construed to refer to the general or overall condition and shall not refer to a spot or localized defect. A political subdivision shall be deemed to waive its immunity for a claim due to a spot or localized defect only if the political subdivision has had actual or constructive notice of the defect within a reasonable time to allow repair prior to the incident giving rise to the claim.

Sec. 1026. Section 13-912, Reissue Revised Statutes of Nebraska, is amended to read:

13-912. If any person suffers personal injury or loss of life, or damage to his or her property by means of insufficiency or want of repair of a highway or bridge or other public thoroughfare, which a political subdivision is liable to keep in repair, the person sustaining the loss or damage, or his or her personal representative, may recover in an action against the political subdivision, and if damages accrue in consequence of the insufficiency or want of repair of a road or bridge or other public thoroughfare, erected and maintained by two or more political subdivisions, the action can be brought against all of the political subdivisions liable for the repairs of the same; and damages and costs shall be paid by the political subdivisions in proportion as they are liable for the repairs. ~~The~~ PROVIDED, the procedure for filing such claims and bringing suit shall be the same for claims under this section as for other claims under ~~sections 13-901 to 13-926, the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489, AND PROVIDED FURTHER, no and section 371 of this act.~~ No political subdivision shall be liable for damages occasioned by defects in state highways and bridges thereon which the Department of Roads is required to maintain, but the political subdivision shall not be relieved of liability until the state has actually undertaken construction or maintenance of such highways. It is the intent of the Legislature that minimum maintenance highways and roads shall not be deemed to be insufficient or in want of repair when they meet the minimum standards for such highways and roads pursuant to section 39-2109.

Sec. 1027. Section 13-913, Reissue Revised Statutes of Nebraska, is amended to read:

13-913. In enacting section 13-912, it is the intent of the Legislature that the liability of all political subdivisions based on the alleged insufficiency or want of repair of any highway or bridge or other public thoroughfare shall be the same liability that previously has been imposed upon counties pursuant to section 13-912. The Legislature further declares that judicial interpretations of section 13-912 governing the liability of counties on January 1, 1970, also shall be controlling on the liability of all political subdivisions for the alleged insufficiency or want of repair of any highway or bridge or other public thoroughfare. Notwithstanding other provisions of ~~sections 13-901 to 13-926, the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act,~~ sections 13-912 to 13-914 shall be the only sections governing determination of liability of political subdivisions for the alleged insufficiency or want of repair of highways, or bridges or other public thoroughfares. As used in sections 13-912 and 13-913, public thoroughfares shall include all streets, alleys, and roads designed, intended, and primarily used for the movement of vehicular traffic and dedicated to public use.

Sec. 1028. Section 13-915, Reissue Revised Statutes of Nebraska, is amended to read:

13-915. In any suit brought pursuant to ~~sections 13-901 to 13-926, the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act~~ and based upon an alleged defect in the construction or maintenance of a sidewalk, public building, or other public facility, an affirmative showing that the claimant had actual knowledge of the alleged defect at the time of the occurrence of the injury, and that an alternate safe route was available and known to the claimant, shall constitute a defense to the suit.

Sec. 1029. Section 13-917, Reissue Revised Statutes of Nebraska, is amended to read:

13-917. Any award made pursuant to the authority granted by section 13-904 and accepted by the claimant and any final judgment in any suit brought pursuant to ~~sections 13-901 to 13-926,~~ the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act shall be final and conclusive on all officers of the political subdivision, except when procured by means of fraud. The acceptance by the claimant of such award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of any claim against the political subdivision and against the employee whose act or omission gave rise to the claim, by reason of the same subject matter.

Sec. 1030. Section 13-918, Reissue Revised Statutes of Nebraska, is amended to read:

13-918. Any awards or judgments pursuant to ~~sections 13-901 to 13-926,~~ the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act shall be paid in the same manner as other claims against the political subdivision. If insufficient funds are available to pay such awards or judgments the governing body shall include sufficient funds in the budget for the next fiscal year. If constitutional or statutory provisions prevent any political subdivision from budgeting sufficient funds to pay any judgment in its entirety, the governing body shall pay that portion that can be paid under the constitution and laws, and then shall make application to the State Treasurer for the loan of sufficient funds to pay the judgment in full. When application is made for such a loan, the State Treasurer shall make such investigation as he or she deems necessary to determine the validity of the judgment and the inability of the political subdivision to make full payment on the judgment, and the period of time during which the political subdivision will be able to repay the loan. After determining that such loan will be proper, the State Treasurer shall make the loan from funds available for investment in the state treasury, ~~such loan to which loan~~ shall carry an interest rate of one-half of one percent per annum. The State Treasurer shall determine the schedule for repayment, and the governing body of the political subdivision shall annually budget and levy a sufficient amount to meet this schedule until the loan, with interest, has been repaid in full.

Sec. 1031. Section 13-923, Reissue Revised Statutes of Nebraska, is amended to read:

13-923. From and after January 1, 1970, the authority of any political subdivision to sue or be sued in its own name shall not be construed to authorize suits against such political subdivision on tort claims except as authorized in ~~sections 13-901 to 13-926,~~ the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act. The remedies provided by ~~this act such act and sections~~ in such cases shall be exclusive.

Sec. 1032. Section 13-924, Reissue Revised Statutes of Nebraska, is amended to read:

13-924. Nothing contained in ~~sections 13-901 to 13-926,~~ the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act shall be deemed to repeal or restrict any provision of law authorizing any political subdivision to consider, ascertain, adjust, compromise, settle, determine, allow, or pay any claim other than a tort claim as defined in ~~sections 13-901 to 13-926, 16-727, 16-728, 23-175, 39-809, and 79-489~~ such act and sections.

Sec. 1033. Section 13-925, Reissue Revised Statutes of Nebraska, is amended to read:

13-925. Nothing in ~~sections 13-901 to 13-926,~~ the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, and 39-809, and 79-489 and section 371 of this act shall be construed to prevent a political subdivision from bringing an action for recovery from an employee of the political subdivision when the political subdivision has made payment of an award or settlement growing out of the employee's act or omission under ~~sections 13-901 to 13-926, 16-727, 16-728, 23-175, 39-809, and 79-489~~ such act and sections.

Sec. 1034. Section 29-2271, Reissue Revised Statutes of Nebraska, is amended to read:

29-2271. Section 29-2270 shall not apply to individuals who pass the general education development test or who earn a high school diploma. Subdivision (2) of section 29-2270 shall not apply to an individual required to attend school pursuant to ~~section 79-201 5 of this act.~~

Sec. 1035. Section 29-2272, Reissue Revised Statutes of Nebraska, is amended to read:

29-2272. (1) If the individual chooses to meet the requirements of section 29-2270 by attending a public school and the individual has previously been expelled from school, prior to the readmission of the individual to the school, school officials shall meet with the individual's probation officer and assist in developing conditions of probation that will provide specific guidelines for behavior and consequences for misbehavior at school as well as educational objectives that must be achieved. The district court, county court, or juvenile court shall review the conditions of probation for the individual and may continue the expulsion or return the individual to school under the agreed conditions.

(2) The school board may expel the individual for subsequent actions as provided in section 79-4,188 ~~71~~ of this act.

(3) The individual shall be screened by the school to which he or she is admitted for possible disabilities and, if the screening so indicates, be referred for evaluation for possible placement in a special education program.

Sec. 1036. Section 30-3209, Reissue Revised Statutes of Nebraska, is amended to read:

30-3209. Corporate trustees authorized by Nebraska law to exercise fiduciary powers and holding retirement or pension funds for the benefit of employees or former employees of cities, villages, school districts, public power districts, or other governmental or political subdivisions may invest and reinvest such funds in such securities and investments as are authorized for trustees, guardians, conservators, personal representatives, or administrators under the laws of Nebraska. Retirement or pension funds of such cities, villages, districts, or subdivisions may be invested in annuities issued by life insurance companies authorized to do business in Nebraska. Any other retirement or pension funds of cities, including cities operating under home rule charters, villages, school districts except as provided in section 79-1951 ~~642~~ of this act, public power districts, and all other governmental or political subdivisions may be invested and reinvested, as the governing body of such city, village, school district, public power district, or other governmental or political subdivision may determine, in the following classes of securities and investments: (1) Bonds, notes, or other obligations of the United States or those guaranteed by or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof; (2) bonds or other evidences of indebtedness of the State of Nebraska and full faith and credit obligations of or obligations unconditionally guaranteed as to principal and interest by any other state of the United States; (3) bonds, notes, or obligations of any municipal or political subdivision of the State of Nebraska which are general obligations of the issuer thereof and revenue bonds or debentures of any city, county, or utility district of this state when the earnings available for debt service have, for a five-year period immediately preceding the date of purchase, averaged not less than one and one-half times such debt service requirements; (4) bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration; (5) certificates of deposit of banks which are members of the Federal Deposit Insurance Corporation or capital stock financial institutions, and if the amount deposited exceeds the amount of insurance available thereon, then the excess shall be secured in the same manner as for the deposit of public funds; (6) accounts with building and loan associations or federal savings and loan associations in the State of Nebraska to the extent that such accounts are insured by the Federal Deposit Insurance Corporation; (7) bonds or other interest-bearing obligations of any corporation organized under the laws of the United States or any state thereof if (a) at the time the purchase is made, they are given, by at least one statistical organization whose publication is in general use, one of the three highest ratings given by such organization and (b) not more than five percent of the fund shall be invested in the obligations of any one issuer; (8) direct short-term obligations, generally classified as commercial paper, of any corporation organized under the laws of the United States or any state thereof with a net worth of ten million dollars or more; and (9) preferred or common stock of any corporation organized under the laws of the United States or of any state thereof with a net worth of ten million dollars or more if (a) not more than fifty percent of the total investments at the time such investment is made is in this class and not more than five percent is invested in each of the first five years and (b) not more than five percent thereof is invested in the securities of any one corporation. Notwithstanding the percentage limits stated in this section, the cash proceeds of the sale of such preferred or common stock may be reinvested in any securities authorized under this subdivision. No city,

village, school district, public power district, or other governmental subdivision or the governing body thereof shall be authorized to sell any securities short, buy on margin, or buy, sell, or engage in puts and calls. The provisions of section 77-2366 shall apply to deposits in capital stock financial institutions.

Sec. 1037. Section 32-312, Revised Statutes Supplement, 1994, is amended to read:

32-312. The office personnel of the election commissioner or county clerk or the deputy registrar shall examine all persons who may personally apply to register to vote as to his or her qualifications, and in the presence of the applicant, the information listed in this section shall be entered in the register.

NAME--the name of the applicant giving the first and last name in full, the middle name in full or the middle initial, and the maiden name of the applicant, if applicable.

RESIDENCE--the name and number of the street, avenue, or other location of the dwelling where the applicant resides if there is a number. If the registrant resides in a hotel, apartment, tenement house, or institution, such additional information shall be included as will give the exact location of such registrant's place of residence. If the registrant lives in an incorporated or unincorporated area not identified by the use of roads, road names, or house numbers, the registrant shall state the section, township, and range of his or her residence and the corporate name of the school district as described in section 79-401 154 of this act in which he or she is located.

POSTAL ADDRESS--the address at which the applicant receives mail if different from the residence address.

ADDRESS OF LAST REGISTRATION--the name and number of the street, avenue, or other location of the dwelling from which the applicant last registered.

TELEPHONE NUMBERS (optional)--the telephone number of the applicant at work and at home. A designation shall be made at the request of the applicant that the telephone number is an unlisted number, and such designation shall preclude the listing of the applicant's telephone number on any list of voter registrations.

OATH-AFFIRMATION--the word Yes or No following either respectively as the case may be.

DATE OF APPLICATION FOR REGISTRATION--the month, day, and year when applicant presented himself or herself for registration.

PLACE OF BIRTH (optional)--show the state, country, kingdom, empire, or dominion where the applicant was born.

DATE OF BIRTH--show the date of the applicant's birth. The applicant shall be at least eighteen years of age or attain eighteen years of age on or before the first Tuesday after the first Monday in November to have the right to register and vote in any election in the present calendar year.

REGISTRATION TAKEN BY--show the signature of the deputy registrar taking the application.

PARTY AFFILIATION--show the party affiliation of the applicant as Democrat, Republican, Nonpartisan, or Other ..... (Note: If you wish to vote in both partisan and nonpartisan primary elections for state and local offices, you must indicate a political party affiliation on the registration form. If you register without a political party affiliation (independent), you will receive only the nonpartisan ballots for state and local offices at primary elections. If you register without a political party affiliation, you may vote in partisan primary elections for congressional offices.)

Immediately following the spaces for inserting information as provided in this section, the following statement shall be printed:

To the best of my knowledge and belief, I declare under penalty of election falsification that:

(1) I am at least eighteen years of age or I will be eighteen years of age prior to the first Tuesday following the first Monday of November of this year;

(2) I am a citizen of the United States;

(3) I live in the State of Nebraska at the address provided above;

(4) I have not been convicted of a felony or, if convicted, my civil rights have been restored; and

(5) I have not been officially found to be non compos mentis (mentally incompetent).

Any registrant who signs this form knowing that any of the information in the form is false shall be guilty of a Class IV felony under section 32-1502 of the statutes of Nebraska. The penalty for a Class IV felony is up to five years imprisonment, a fine of up to ten thousand dollars, or both.

APPLICANT'S SIGNATURE--require the applicant to affix his or her signature to the form.

Sec. 1038. Section 32-511, Revised Statutes Supplement, 1994, is amended to read:

32-511. The State of Nebraska is divided into eight districts for the election of the State Board of Education as provided and described in sections ~~79-322-01 and 79-322-02~~ 139 and 140 of this act. One member from district number one, one member from district number two, one member from district number three, and one member from district number four shall be elected at the statewide general election in 1996 and each four years thereafter. One member from district number five, one member from district number six, one member from district number seven, and one member from district number eight shall be elected at the statewide general election in 1994 and each four years thereafter. The members shall serve for terms of four years or until their successors are elected and qualified. The members representing districts six and seven on September 6, 1991, shall thereafter represent districts seven and six, respectively. The member representing district five on September 6, 1991, shall represent the new district five as it is established by Laws 1991, LB 619, for the balance of his or her term. Candidates for the State Board of Education shall meet the qualifications found in section ~~79-323~~ 141 of this act. The members shall be elected on the nonpartisan ballot.

Sec. 1039. Section 32-515, Revised Statutes Supplement, 1994, is amended to read:

32-515. Candidates for the boards of educational service units shall be elected to represent the geographical boundaries of the educational service unit as provided in section ~~79-2203~~ 934 of this act. Successors to the members 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 August 1 prior to the statewide general election. Candidates for the position of members at large shall file their written applications with the Secretary of State no later than August 1 prior to the statewide general election. Candidates for the board of educational service units shall meet the qualifications found in section ~~79-2203~~ such section. Board members shall be elected on the nonpartisan ballot.

Sec. 1040. Section 32-541, Revised Statutes Supplement, 1994, is amended to read:

32-541. Class I school districts which have voted to have a six-member school board pursuant to section ~~79-601-01~~ 301 of this act may elect the board members at the statewide primary election. The members of the school board serving when it is decided to elect at the statewide primary election shall continue in office until the first Tuesday in June following the next statewide primary election, at which election a six-member board shall be elected. The three members receiving the highest number of votes shall be elected for terms of four years, and the three members receiving the next highest number of votes shall be elected for terms of two years. Each member's term of office shall begin on the first Tuesday in June following his or her election and, except as otherwise provided in this section, shall continue for four years or until the member's successor is elected and qualified. The members shall meet the qualifications found in section ~~79-443-01~~ 296 of this act.

Sec. 1041. Section 32-542, Revised Statutes Supplement, 1994, is amended to read:

32-542. Three school board members shall be elected for each Class II school district at each statewide primary election, except that when a Class II school district is created by a Class I school district which determines by a majority vote to establish a high school pursuant to section ~~79-701~~ 155 of this act, a six-member board shall be elected at the next statewide primary election and the three members receiving the highest number of votes shall be elected for terms of four years, and the three members receiving the next highest number of votes shall be elected for terms of two years. Each member's term of office shall begin on the first Tuesday in June following his or her election and, except as otherwise provided in this section, shall continue for four years or until the member's successor is elected and qualified. The school board members of a Class II school district shall meet the qualifications found in section ~~79-443-01~~ 296 of this act.

Sec. 1042. Section 32-543, Revised Statutes Supplement, 1994, is amended to read:

32-543. (1) If more than seventy-five percent of the geographical area of a Class III school district lies within a city of the metropolitan class, the board of education shall consist of six members to be elected by

the registered voters of the school district at the statewide primary election. Two members shall be elected at each election for a term of six years. The members shall meet the qualifications found in section 79-443-01 296 of this act.

(2) Except as provided in subsection (1) of this section, members of the board of education of a Class III school district shall be nominated at the statewide primary election and elected at the statewide general election. The board of education of a Class III school district shall have six or nine members as provided in section 79-803-03 ~~or 79-803-11~~ 302 or 303 of this act, and the members shall be nominated and elected at large or by district or ward as provided in section 32-554. The number of members to be nominated at the statewide primary election and elected at the statewide general election and the terms for which they will be nominated and elected shall be determined by the election commissioner or county clerk with the aid of the elected secretary of the board of education of the district. The terms of office of members of such board shall expire on the first Thursday after the first Tuesday in January. Terms shall be staggered so that three members shall be elected to each six-member board and four or five members shall be elected to each nine-member board at each general election for terms of four years. When it becomes necessary to establish the staggering of terms by nominating and electing members for terms of different duration at the same election, candidates receiving the greatest number of votes shall be nominated. The members shall meet the qualifications found in section 79-443-01 296 of this act.

Sec. 1043. Section 32-544, Revised Statutes Supplement, 1994, is amended to read:

32-544. Candidates for the board of education of a Class IV school district shall be nominated and elected by district as provided in section 32-552 for four-year terms at the same time as members of the city council of the city in which the district is located. A member of the board shall be elected from each district pursuant to such section. Candidates shall be nominated and elected upon a nonpartisan ballot. At the general city election in 1979 and each four years thereafter, one member shall be elected from each even-numbered district. At the general city election in 1981 and each four years thereafter, one member shall be elected from each odd-numbered district. The members shall meet the qualifications found in section 79-443-01 296 of this act.

Sec. 1044. Section 32-545, Revised Statutes Supplement, 1994, is amended to read:

32-545. A member of the board of education of a Class V school district shall be elected from each district provided for in section 32-552. The members shall meet the qualifications found in section 79-1003 305 of this act. At each statewide general election, six members of the board shall be elected to serve for four years from and including the first Monday of the January following their election or until their successors are elected and qualified. Candidates shall be nominated at the statewide primary election upon a nonpartisan ballot. At the statewide general election in 1976 and each four years thereafter, one member shall be elected from each even-numbered district. At the statewide general election in 1978 and each four years thereafter, one member shall be elected from each odd-numbered district. The members shall meet the qualifications found in section 79-443-01 296 of this act.

Sec. 1045. Section 32-546, Revised Statutes Supplement, 1994, is amended to read:

32-546. Members of the school board of a Class VI school district shall be elected at the statewide primary election. The term of office for members shall begin on the second Monday in June following their election and shall continue for four years or until their successors are elected and qualified. Persons may be nominated either by petition or by direct filing. The members shall meet the qualifications found in section 79-443-01 296 of this act.

Sec. 1046. Section 32-567, Revised Statutes Supplement, 1994, is amended to read:

32-567. Vacancies in office shall be filled as follows:

(1) In state and judicial district offices and in the membership of any board or commission created by the state when no other method is provided, by the Governor;

(2) In county offices, by the county board;

(3) In the membership of the county board, by the county clerk, county attorney, and county treasurer;

(4) In township offices, by the township board or, if there are two or more vacancies on the township board, by the county board;

(5) In offices in public power and irrigation districts, according to section 70-615;

(6) In offices in natural resources districts, according to section 2-3215;

(7) In offices in community college areas, according to section 85-1514;

(8) In offices in educational service units, according to section 79-2203 934 of this act;

(9) In offices in hospital districts, according to section 23-3534;

(10) In offices in metropolitan utilities districts, according to section 14-2104;

(11) In membership on airport authority boards, according to section 3-502, 3-611, or 3-703, as applicable; and

(12) In membership on the board of trustees of a road improvement district, according to section 39-1607.

Unless otherwise provided by law, all vacancies shall be filled within forty-five days after the vacancy occurs unless good cause is shown that the requirement imposes an undue burden.

Sec. 1047. Section 43-2007, Reissue Revised Statutes of Nebraska, is amended to read:

43-2007. (1) Upon notification by the patrol of a missing person, any school in which the missing person is currently or was previously enrolled shall flag the school records of such person in such school's possession. The school shall report immediately any request concerning a flagged record or any knowledge of the whereabouts of the missing person.

(2) Upon enrollment of a student for the first time in a public school district or private school system, the school or enrollment shall notify in writing the person enrolling the student that within thirty days he or she must provide either (a) a certified copy of the student's birth certificate or (b) other reliable proof of the student's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

(3) The parent or guardian of a child who is receiving his or her education in a home school subject to sections 79-1701 to 79-1707 1004 to 1010 of this act shall, not later than October 1 of the first year of the child's attendance at the home school, provide to the Commissioner of Education either (a) a certified copy of the child's birth certificate or (b) other reliable proof of the child's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate.

(4) Upon failure of the person, parent, or guardian to comply with subsection (2) or (3) of this section, the school or Commissioner of Education shall notify such person, parent, or guardian in writing that unless he or she complies within ten days the matter shall be referred to the local law enforcement agency for investigation. If compliance is not obtained within such ten-day period, the school or commissioner shall immediately report such matter. Any affidavit received pursuant to subsection (2) or (3) of this section that appears inaccurate or suspicious in form or content shall be reported immediately to the local law enforcement agency by the school or commissioner.

(5) Any school requested to forward a copy of a transferred student's record shall not forward a copy of such record to the requesting school if the record has been flagged pursuant to subsection (1) of this section. If such record has been flagged, the school to whom such request is made shall notify the local law enforcement agency of the request and that such student is a reported missing person.

Sec. 1048. Section 43-2505, Reissue Revised Statutes of Nebraska, is amended to read:

43-2505. For purposes of the Early Intervention Act:

(1) Collaborating agencies shall mean the Department of Health, the Department of Public Institutions, the Department of Social Services, and the State Department of Education;

(2) Developmental delay shall mean any of the disability classifications or conditions described in section 79-3309 802 of this act;

(3) Early intervention services may include services which:

(a) Are designed to meet the developmental needs of each eligible infant or toddler with disabilities and the needs of the family related to enhancing the development of their infant or toddler;

(b) Are selected in collaboration with the parent or guardian;

(c) Are provided in accordance with an individualized family service plan;

(d) Meet all applicable federal and state standards; and

(e) Are provided, to the maximum extent appropriate, in natural

environments including the home and community settings in which infants and toddlers without disabilities participate;

(4) Eligible infant or toddler with disabilities shall mean a child who needs early intervention services and is two years of age or younger, except that toddlers who reach age three during the school year shall remain eligible throughout that school year. The need for early intervention services is established when the infant or toddler experiences developmental delays which shall mean any of the disability classifications or conditions described in the Special Education Act;

(5) Federal early intervention program shall mean the federal early intervention program for infants and toddlers with disabilities, 20 U.S.C. 1471 to 1485;

(6) Individualized family service plan shall mean the process, periodically documented in writing, of determining appropriate early intervention services for an eligible infant or toddler with disabilities and his or her family;

(7) Interagency planning team shall mean an organized group of interdisciplinary, interagency representatives, community leaders, and family members in each local community or region;

(8) Lead agency or agencies shall mean the Department of Social Services and State Department of Education and any other agencies designated by the Governor for general administration, supervision, and monitoring of programs and activities receiving federal funds under the federal early intervention program and state funds appropriated for early intervention services under the Early Intervention Act;

(9) Nebraska Interagency Coordinating Council shall mean the state council the function of which is to advise and assist the collaborating agencies in carrying out the provisions of the act. The members of the council shall be appointed by the Governor and shall include, but not be limited to, representatives of school districts, social services, health and medical services, parents, mental health services, developmental disabilities services, educational service units, Head Start, higher education, physicians, the Legislature, and the collaborating agencies; and

(10) Services coordination shall mean a flexible process of interaction facilitated by a services coordinator to assist the family of an eligible infant or toddler with disabilities within a community to identify and meet their needs pursuant to the Early Intervention Act. Services coordination under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from other sources.

Sec. 1049. Section 43-2507.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-2507.02. The State Department of Education shall maintain its responsibility under the Special Education Act regarding special education and related services. The department shall provide grants for the costs of such programs to the school district of residence as provided in section 79-3325 814 of this act.

Sec. 1050. Section 43-2512, Reissue Revised Statutes of Nebraska, is amended to read:

43-2512. Each region established pursuant to section 79-3328 817 of this act shall establish an interagency planning team, which planning team shall include representatives from school districts, social services, health and medical services, parents, and mental health, developmental disabilities, Head Start, and other relevant agencies or persons serving children from birth to age five and their families and parents or guardians. Each interagency planning team shall be responsible for assisting in the planning and implementation of the Early Intervention Act in each local community or region. The Department of Social Services, in collaboration with each regional interagency planning team, shall provide or contract for services coordination.

Sec. 1051. Section 43-2513, Revised Statutes Supplement, 1995, is amended to read:

43-2513. For purposes of the general fund budget of expenditures as defined in section 79-3803 654 of this act, funds received to carry out the services coordination functions and the administration of the billing system shall be considered special grant funds.

Sec. 1052. Section 43-2620, Revised Statutes Supplement, 1995, is amended to read:

43-2620. The Department of Social Services and the State Department of Education shall collaborate in their activities and may:

(1) Encourage the development of comprehensive systems of child care programs and early childhood education programs which promote the wholesome

growth and educational development of children, regardless of the child's level of ability;

(2) Encourage and promote the provision of parenting education, developmentally appropriate activities, and primary prevention services by program providers;

(3) Facilitate cooperation between the private and public sectors in order to promote the expansion of child care;

(4) Promote continuing study of the need for child care and early childhood education and the most effective methods by which these needs can be served through governmental and private programs;

(5) Coordinate activities with other state agencies serving children and families;

(6) Strive to make the state a model employer by encouraging the state to offer a variety of child care benefit options to its employees;

(7) Provide training for child care providers as authorized in sections ~~79-3701 to 79-3703~~ ~~783 to 785 of this act~~;

(8) Develop and support resource and referral services for parents and providers that will be in place statewide by January 1, 1994;

(9) Promote the involvement of businesses and communities in the development of child care throughout the state by providing technical assistance to providers and potential providers of child care;

(10) Establish a voluntary accreditation process for public and private child care and early childhood education providers, which process promotes program quality;

(11) Provide and coordinate staff assistance to the Child Care and Early Childhood Education Coordinating Committee;

(12) At least biennially, develop an inventory of programs and early childhood education programs provided to children in Nebraska and identify the number of children receiving and not receiving such services, the types of programs under which the services are received, and the reasons children not receiving the services are not being served; and

(13) Support the identification and recruitment of persons to provide child care for children with special needs.

Sec. 1053. Section 48-233, Reissue Revised Statutes of Nebraska, is amended to read:

48-233. (1) In addition to the penalties provided in the Uniform Controlled Substances Act, any employee of a state agency, political subdivision, or institution who possesses, dispenses, delivers, administers, uses, or knowingly allows a subordinate employee or a student attending such employee's employing institution to possess, dispense, deliver, administer, or use an anabolic steroid unless such substance is needed for a valid medical purpose:

(a) For the first conviction, shall be dismissed from employment and shall not be an employee of the dismissing entity or any other state agency, political subdivision, or institution for a period of one year after his or her dismissal; and

(b) For a second or any subsequent conviction, shall be dismissed from employment and shall not thereafter be an employee of the dismissing entity or any other state agency, political subdivision, or institution.

(2) Any sanction imposed pursuant to this section shall be subject to the Administrative Procedure Act except for those employees governed by sections ~~79-12,107 to 79-12,121~~ ~~454 to 472 of this act~~.

(3) The use of an anabolic steroid for the purpose of hormonal manipulation that is intended to increase muscle mass, strength, or weight without a medical necessity to do so or for the intended purpose of improving physical appearance or performance in any form of exercise, sport, or game shall not be a valid medical purpose or in the course of professional practice.

Sec. 1054. Section 58-238, Reissue Revised Statutes of Nebraska, is amended to read:

58-238. Members of the authority shall not be liable to the state, the authority, or any other person as a result of their activities, whether ministerial or discretionary, as authority members, except for willful dishonesty or intentional violations of law. Members of the authority and any person executing bonds or policies of insurance shall not be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The authority may purchase liability insurance for members, officers, and employees and may indemnify any authority member to the same extent that a school district may indemnify a school board member pursuant to section ~~79-4,155~~ ~~269 of this act~~.

Sec. 1055. Section 58-319, Reissue Revised Statutes of Nebraska, is amended to read:

58-319. Members of the authority shall not be liable to the state, to the authority, or to any other person as a result of their activities, whether ministerial or discretionary, as authority members except for willful dishonesty, gross negligence, or intentional violations of law. The authority may purchase liability insurance for members, officers, and employees and may indemnify any authority member to the same extent that a school district may indemnify a school board member pursuant to section 79-4,155 269 of this act.

Sec. 1056. Section 58-412, Reissue Revised Statutes of Nebraska, is amended to read:

58-412. Members of the authority shall not be liable to the state, to the authority, or to any other person as a result of their activities, whether ministerial or discretionary, as authority members except for willful dishonesty, gross negligence, or intentional violations of law. The authority may purchase liability insurance for members, officers, and employees and may indemnify any authority member to the same extent that a school district may indemnify a school board member pursuant to section 79-4,155 269 of this act.

Sec. 1057. Section 71-1623, Reissue Revised Statutes of Nebraska, is amended to read:

71-1623. Sections 71-1601 to 71-1625 shall vest in each health district the powers heretofore granted to other governmental subdivisions by all acts covering the same subject matter, and particularly by the pertinent parts of sections 14-101, 14-102(3), 14-102(28), section 14-101, subdivisions (3) and (28) of section 14-102, and sections 14-103, 14-219, 14-501, 15-201, 15-235, 15-236, 15-237, 16-201, 16-231, 16-238, 16-239, 16-308, 17-114, 17-121, 17-122, 17-207, 17-208, 18-1901, 19-501, 23-104, 23-105, 68-104, 68-114, 71-501, and 71-503, and 79-443 and section 279 of this act. It is not intended to repeal nor to amend any of the above statutes listed in this section or any portion of them, but to suspend the exercise of the powers therein granted during the period that a health district is actually functioning so far as any governmental subdivision is concerned that may be within the county containing such health district.

Sec. 1058. Section 71-1910, Revised Statutes Supplement, 1995, is amended to read:

71-1910. For purposes of sections 71-1908 to 71-1917, unless the context otherwise requires:

- (1) Department shall mean the Department of Social Services;
- (2) Director shall mean the Director of Social Services; and
- (3) Program shall mean the provision of services in lieu of parental

supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-444 786 of this act, or preschool or nursery school. Program shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-328 146 of this act, or foster care as defined in section 71-1901. The State Board of Education may adopt and promulgate rules and regulations which shall apply to any program and any school-age-care program operated or contracted by a public school district.

Sec. 1059. Section 72-801, Revised Statutes Supplement, 1995, is amended to read:

72-801. Any public building that is erected or repaired and for which an appropriation is made by the Legislature shall be constructed or repaired in a complete manner within the limits of such appropriation. Except as provided in sections 72-811 to 72-818, 79-1915, and 79-2012 and sections 890 and 902 of this act, no building shall be changed or diverted from the use or purpose, kind, or class of building from that for which the appropriation was originally made.

Sec. 1060. Section 72-1237.01, Revised Statutes Supplement, 1994, is amended to read:

72-1237.01. As used in the Nebraska State Funds Investment Act, this act shall mean and refer to sections 1-111, 2-115, 2-1503.01, 2-1547, 2-1808, 2-2317, 3-126, 8-1120, 24-704, 35-601, 37-206, 37-428, 39-1323.01, 39-1390, 44-116, 44-707.03, 45-127, 45-603, 48-617, 48-620, 48-621, 54-112, 54-147, 54-150, 54-1173, 55-131, 57-919, 60-1409, 66-499, 68-301, 68-612, 70-1020, 71-1,147.02, 71-1,206.13, 71-222.02, 71-1336, 71-2016, 71-2201, 72-202, 72-1005, 72-1237 to 72-1260, 79-1247.07, 79-1345, 79-1501 to 79-1503.01, 79-1545, 79-1556, 79-1557, 79-2107, 79-3812, 80-111, 80-301, 80-401, 81-528, 81-815.30, 81-845, 81-8,107, 81-912, 81-1117, 81-1120.22, 81-1278, 81-2019, 81-2022, 82-108.02, 83-150, 83-169, 83-210.01, 84-1301,

84-1305, 84-1308, 84-1309, 85-106, 85-113, 85-122, 85-123.01, 85-168, 85-170, 85-192, 85-320, 85-403, and 85-606.01 and sections 440, 536 to 540, 574, 603, 611, 667, 709, and 976 of this act.

Sec. 1061. Section 73-106, Reissue Revised Statutes of Nebraska, is amended to read:

73-106. Whenever any public school district in the state expends public funds for the construction, remodeling, or repair of any school-owned building or for site improvements, other than those expenditures authorized by section 79-4, ~~153-01~~ 750 of this act for facilities which are not to be owned by the district following their completion, the board of education shall advertise for bids in the regular manner established by the board and accept or reject bids pursuant to section 73-101, except that nothing in this section shall be held to apply to such construction, remodeling, repair, or site improvements when the contemplated expenditure for the complete project does not exceed forty thousand dollars. This section shall not apply to the acquisition of existing buildings, purchase of new sites, or site expansions by the school district.

Sec. 1062. Section 77-2341, Revised Statutes Supplement, 1994, is amended to read:

77-2341. (1) Whenever any county, city, village, or other governmental subdivision, other than a school district, of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such county, city, village, or other governmental subdivision may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The state investment officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.

(2) Whenever any school district of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a fund for the payment of bonds and the money in such fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the board of education of such school district may invest any such surplus in excess of current needs or such excess in the bond fund in securities in which such board of education is authorized to invest pursuant to section 79-~~1300-01~~ 689 of this act.

(3) Nothing in subsection (1) of this section shall be construed to restrict investments authorized pursuant to section 14-563.

(4) Nothing in subsections (1), (2), and (3) of this section shall be construed to authorize investments in venture capital.

Sec. 1063. Section 77-2704.12, Revised Statutes Supplement, 1994, is amended to read:

77-2704.12. (1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by any organization created exclusively for religious purposes, any nonprofit organization providing services exclusively to the blind, any private educational institution established under ~~Chapter 79, article 17~~ sections 1004 to 1010 of this act, any private college or university established under ~~Chapter 85, article 11~~ sections 85-1101 to 85-1111, any hospital, health clinic when two or more hospitals or the parent corporations of the hospitals own or control the health clinic for the purpose of reducing the cost of health services or when the health clinic receives funds under the Urban Health Initiative Program or the Rural Health Initiative Program of the United States Public Health Service, skilled nursing facility, intermediate care facility, or nursing facility licensed under sections 71-2017 to 71-2029 and organized not for profit, any nonprofit organization providing services primarily for home health care purposes, any licensed child-caring agency, or any licensed child placement agency.

(2) Any organization listed in subsection (1) of this section shall apply for an exemption on forms provided by the Tax Commissioner. The application shall be approved and a numbered certificate of exemption received by the applicant organization in order to be exempt from the sales and use tax.

(3) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate

consumer of property which is physically annexed to the structure and which subsequently belongs to the owner of the organization or institution. The appointment of purchasing agents shall be in writing and occur prior to having any property annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund of or use as a credit against a future use tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project for a licensed not-for-profit institution.

(4) Any organization listed in subsection (1) of this section which enters into a contract of construction, improvement, or repair upon property annexed to real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to property being annexed to real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor or repairperson on the property physically annexed to real estate in the construction, improvement, or repair.

(5) Any person purchasing, storing, using, or otherwise consuming property in the performance of any construction, improvement, or repair by or for any institution enumerated in subsection (1) of this section which is licensed upon completion although not licensed at the time of construction or improvement, which property is annexed to real estate and which subsequently belongs to the owner of the institution, shall pay any applicable sales or use tax thereon. Upon becoming licensed and receiving a numbered certificate of exemption, the institution organized not for profit shall be entitled to a refund of the amount of taxes so paid in the performance of such construction, improvement, or repair and shall submit whatever evidence is required by the Tax Commissioner sufficient to establish the total sales and use tax paid upon the property physically annexed to real estate in the construction, improvement, or repair.

Sec. 1064. Section 77-3438, Revised Statutes Supplement, 1995, is amended to read:

77-3438. (1) Except as provided in sections 77-3437, 77-3438.01, 77-3439, and 77-3440, no governing body shall adopt a budget statement pursuant to section 13-506 or pursuant to the charter or ordinance of a city with a home rule charter in which the anticipated aggregate receipts from property taxes for any fiscal year exceed the anticipated aggregate receipts from property taxes for the prior fiscal year or, for a governing body which budgeted no revenue to be received from the levy of taxes on real and personal property in such year, the most recent fiscal year prior to such year for which the governing body did budget to receive property taxes.

(2) A governing body may increase property taxes by a specific dollar amount greater than that permitted by subsection (1) of this section if a final order of a court, the State Board of Equalization and Assessment, the Tax Commissioner, the Tax Equalization and Review Commission, or the Property Tax Administrator from which no appeal is taken requires reimbursement by the governing body of property taxes to a taxpayer. The increase shall not exceed the amount of the reimbursement.

(3) A county board may increase property taxes by a specific dollar amount greater than that permitted by subsection (1) of this section not to exceed the dollar amount of reduction in state aid to the county resulting from the changes made to section 77-27,136 by Laws 1992, LB 1063.

(4) For political subdivisions that have annexed property or have consolidated after December 15, 1989, or for a new educational service unit organized pursuant to section ~~79-2202-06~~ 926 of this act or an existing educational service unit, which new or existing unit has added or received a school district or portion thereof, the anticipated aggregate receipts from property taxes shall be computed based on the combined aggregate property taxes of each subdivision in the fiscal year immediately preceding consolidation, annexation, or addition. The estimated amount of property taxes for the immediately preceding fiscal year from the annexed, added, or consolidated property to be added to the property taxes of the political subdivision shall be computed by multiplying the property tax levy of the political subdivision for the immediately preceding fiscal year by the taxable valuation of the annexed, added, or consolidated property for the immediately preceding fiscal year.

Sec. 1065. Section 77-3439, Revised Statutes Supplement, 1995, is amended to read:

77-3439. (1) A governing body may increase the anticipated aggregate receipts from property taxes more than the amount permitted by section 77-3438 by the percentage change in the Consumer Price Index - All Urban Consumers, published by the United States Department of Labor, Bureau of Labor Statistics, for the previous calendar year, up to a maximum of four percent. The increase shall be approved upon the affirmative vote of a

majority of the governing body. If such increase is less than four percent more than the amount permitted by section 77-3438, a governing body may increase the anticipated aggregate receipts from property taxes by an additional amount equal to the difference between the increase approved for the percentage change in the Consumer Price Index - All Urban Consumers and four percent more than the amount permitted by section 77-3438 upon an affirmative vote of at least seventy-five percent of the governing body. Such vote shall be taken at a public meeting of the governing body following a special public hearing called for the purpose of receiving testimony on such proposed increase.

(2) In addition to the increase permitted by subsection (1) of this section, (a) a community college board of governors may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for accessibility barrier elimination project costs and for abatement of environmental hazards as such terms are defined in section 79-4,207 756 of this act and (b) the board of an educational service unit may increase the anticipated aggregate receipts from property taxes for purposes of section 79-2225 950 of this act. Such increase shall be upon an affirmative vote of a majority of the board taken at a public meeting of the board following (i) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (ii) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(3) In addition to the increase permitted by subsection (1) of this section, a public building commission created under sections 13-1301 to 13-1312, municipality, or county may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for accessibility barrier elimination project costs upon an affirmative vote of a majority of the governing body or of the board of commissioners. Such vote shall be taken at a public meeting of the governing body or board of commissioners following (a) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (b) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(4) In addition to the increase permitted by subsection (1) of this section, a public building commission created under sections 13-1301 to 13-1312, municipality, or county may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Nebraska Disaster and Civil Defense Act of 1973 not reimbursed by state or federal emergency funds upon an affirmative vote of a majority of the governing body or of the board of commissioners. Such vote shall be taken at a public meeting of the governing body or board of commissioners following (a) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (b) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(5) In addition to the increase permitted by subsection (1) of this section, a municipality, county, or community college may increase the anticipated aggregate receipts from property taxes by the amount necessary to comply with a final order, judgment, ruling, or award of the Commission on Industrial Relations upon an affirmative vote of a majority of the governing body. Such vote shall be taken at a public meeting of the governing body following (a) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (b) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(6) The governing body, board of commissioners, board of governors, or board of an educational service unit shall give at least seven calendar days' notice of a public hearing called under this section and shall publish such notice at least once in a newspaper of general circulation in the political subdivision.

(7) Any governing body that chooses not to increase its anticipated aggregate receipts from property taxes to its authorized level for the fiscal year may carry forward unused authority. In such case, the governing body shall calculate the amount of unused anticipated aggregate receipts from property taxes which shall be carried forward to future fiscal years so a governing body may increase its anticipated aggregate receipts from property taxes in future fiscal years by the amount of such total unused anticipated aggregate receipts from property taxes in addition to the amount allowable for the specific fiscal year. The calculation of unused anticipated aggregate receipts shall be included in the budget documents submitted to the Auditor of

## Public Accounts.

Sec. 1066. Section 83-121, Revised Statutes Supplement, 1995, is amended to read:

83-121. There is hereby created the School District Reimbursement Fund for use by the Department of Public Institutions. The fund shall consist of money received from school districts or the Department of Social Services pursuant to section 79-3341 834 of this act for the operation of special education programs within the Department of Public Institutions. The fund shall be used for the operation of such programs pursuant to sections 79-3341 to 79-3346 834, 835, and 837 to 840 of this act.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 1067. Section 83-382, Reissue Revised Statutes of Nebraska, is amended to read:

83-382. Except as provided in sections 79-3337 and 79-3338 830 and 831 of this act, the Department of Public Institutions shall have jurisdiction of the admission of persons with mental retardation to a residential facility. Applications for admission to a residential facility shall be filed with the director.

Sec. 1068. Section 83-1225, Reissue Revised Statutes of Nebraska, is amended to read:

83-1225. Each school district shall provide transition services for each student with a developmental disability no later than when the student reaches sixteen years of age and until the student graduates from a special education program or is no longer eligible to receive services pursuant to section 79-3315 808 of this act. Transition services shall consist of a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation. The transition team shall designate one or more specialized service providers to develop a plan for the student's transition to adult specialized services.

Sec. 1069. Section 84-304, Revised Statutes Supplement, 1995, 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)(a) 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, (b) 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 an agricultural association formed under Chapter 2, article 20, county agricultural society, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, development district, regional council, drainage district, fire protection district, health district, historical society, hospital authority or district, county hospital, irrigation district, regional, county, or municipal library, community mental health center, railroad transportation safety district, rural water district, township, or the Wyuka Cemetery, and (c) to report promptly to the Director of Administrative Services and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations, 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. An examination of any volunteer department as defined in section 35-901 shall not include an examination of the volunteer department trust fund. Whenever the expenditures

of a fire protection district are less than one hundred fifty thousand dollars 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 of Public Accounts 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 of Public Accounts 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 of Public Accounts. The Auditor of Public Accounts shall notify the fire protection district in writing of the approval or denial of a request for waiver. The Auditor of Public Accounts shall appoint two assistant deputies (i) whose entire time shall be devoted to the service of the state as directed by the auditor, (ii) who shall be certified public accountants with at least five years' experience, (iii) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, (iv) 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 (v) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State; and

(4) 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 of Public Accounts may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-2210:04 section 946 of this act 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.

All the audits and examinations conducted by the Auditor of Public Accounts shall be conducted 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.

Sec. 1070. Section 84-1301, Reissue Revised Statutes of Nebraska, is amended to read:

84-1301. For purposes of the State Employees Retirement Act, unless the context otherwise requires:

(1) Employee shall mean any employee of the State Board of Agriculture who is a member of the state retirement plan on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employees shall not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, (g) the Commissioner of Labor employed prior to July 1, 1984, (h) employees of the State Board of Agriculture who are not members of the state retirement plan on July 1, 1982, (i) the Nebraska National Guard air and army technicians, (j) persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-1565 555 of this act or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, or (k) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of such retirement system;

(2) Part-time employee shall mean an employee who works less than one-half of the regularly scheduled hours;

(3) Retirement shall mean qualifying for and terminating employment after becoming qualified to receive the retirement allowance granted under the State Employees Retirement Act;

(4) Retirement board or board shall mean the Public Employees Retirement Board;

(5) Retirement system shall mean the State Employees Retirement System of the State of Nebraska;

(6) Required contribution shall mean the deduction to be made from the compensation of employees as provided in section 84-1308;

(7) Service shall mean the actual total length of employment as an employee and shall include leave of absence because of disability or military service when properly authorized by the retirement board but shall not include any period of disability for which disability retirement benefits are received under the provisions of section 84-1317;

(8) Straight life annuity shall mean an ordinary annuity payable for the life of the primary annuitant only and terminating at his or her death without refund or death benefit of any kind;

(9) Prior service shall mean service before January 1, 1964;

(10) Group annuity contract shall mean the contract or contracts issued by one or more life insurance companies to the board in order to provide the benefits described in sections 84-1319, 84-1320, 84-1321, 84-1323, and 84-1323.01;

(11) Primary carrier shall mean the life insurance company or trust company designated as the administrator of the group annuity contract;

(12) State department shall mean any department, bureau, commission, or other division of state government not otherwise specifically defined or exempted in the State Employees Retirement Act, the employees and officers of which are not already covered by a retirement plan;

(13) Disability shall mean an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(14) Date of disability shall mean the date on which a member is determined to be disabled by the board;

(15) Regular interest shall mean the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on its investments;

(16) Fund shall mean the State Employees Retirement Fund created by section 84-1309;

(17) Guaranteed investment contract shall mean an investment contract which guarantees that the account maintained for any participant will not decrease in value but will increase each year by the contribution allocated to the account and by investment earnings and will decrease by the amount of expenses reasonably determined to be allocated to the account; and

(18) Investment manager shall mean one or more insurance companies, bank trust departments, or independent investment advisors designated to invest any portion of the fund.

Sec. 1071. Section 84-1408, Reissue Revised Statutes of Nebraska, is amended to read:

84-1408. It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of the State of Nebraska, federal statutes, and sections 79-327, 84-1408 to 84-1414, and 85-104 and section 145 of this act.

Sec. 1072. Section 84-1410, Reissue Revised Statutes of Nebraska, is amended to read:

84-1410. (1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or

devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing sections 79-327, 84-1408 to 84-1414, or 85-104 or section 145 of this act. No closed session, informal meeting, chance meeting, social gathering, or electronic communication shall be used for the purpose of circumventing the requirements of such sections.

(5) Such sections shall not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

Sec. 1073. Section 84-1412, Reissue Revised Statutes of Nebraska, is amended to read:

84-1412. (1) Subject to sections 79-327, 84-1408 to 84-1414, and 85-104 and section 145 of this act, the public shall have the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting. The body may require any member of the public desiring to address the body to identify himself or herself.

(4) No public body shall, for the purpose of circumventing sections 84-1408 to 84-1414, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience. No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state. Except as provided in section 18-2438, no public body shall hold a meeting outside the State of Nebraska.

(5) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

(6) Public bodies shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting.

Sec. 1074. Section 84-1414, Reissue Revised Statutes of Nebraska, is amended to read:

84-1414. (1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of sections 79-327, 84-1408 to 84-1414, and 85-104 and section 145 of this act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of such sections shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce such sections.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of such sections, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of such sections to discussions or decisions of the public body. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of sections 79-327, 84-1408 to 84-1414, and 85-104 and section 145 of this act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Sec. 1075. Section 84-1503.01, Revised Statutes Supplement, 1995, is amended to read:

84-1503.01. The Public Employees Retirement Board shall develop a mechanism for identifying and monitoring members whose annual benefits or annual additions may exceed the 415 limitations contained in sections 23-2310.02, 24-703.02, 79-1522-05, 81-2027.02, and 84-1311.02 and section 572 of this act. Such mechanism may include, but shall not be limited to, the review of a member's wages and a member's contributions to a plan established pursuant to sections 125, 401(k), 403(b), and 457 of the Internal Revenue Code. The board shall adopt and promulgate rules and regulations to carry out this section. In accordance with such rules and regulations, each county, school district, or appropriate state agency shall submit to the board annual information on member wages and contributions.

Sec. 1076. Section 84-1511, Revised Statutes Supplement, 1995, is amended to read:

84-1511. (1) The Public Employees Retirement Board shall establish a comprehensive preretirement planning program for state patrol officers, state employees, judges, county employees, and school employees who are members of the retirement systems established pursuant to the School Employees Retirement Act, pursuant to Chapter 23, article 23, Chapter 24, article 7, Chapter 79, articles 10 and 15, Chapter 81, article 20, and Chapter 84, article 13, and pursuant to sections 613 to 651 of this act. The program shall provide information and advice regarding the many changes employees face upon retirement including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(2) The preretirement planning program shall be available to all employees who have attained the age of fifty or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board deems valuable in assisting public employees in the transition from public employment to retirement.

(4) The board shall work with the Department on Aging, personnel division of the Department of Administrative Services, employee groups, and any other governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) Funding to cover the expense of the preretirement planning program shall be charged back to each retirement fund on a pro rata share based on the number of employees in each plan.

(6) The employer shall provide each eligible employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay shall mean a day off paid by the employer and shall not mean vacation, sick, personal, or compensatory time. An employee may choose to attend a program more than twice, but such leave shall be at the expense of the employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee shall be charged each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

Sec. 1077. Section 85-104, Reissue Revised Statutes of Nebraska, is amended to read:

85-104. All meetings of the Board of Regents shall be open to the public. The board may hold closed sessions in accordance with this section and sections 79-327, 84-1408 to 84-1414, and 85-104. Public record shall be made and kept of all meetings and proceedings of the board. The regents shall meet at least twice each year at the administration building. They shall receive for their services no compensation, but they may be reimbursed their actual expenses incurred in the performance of their official duties as provided in sections 81-1174 to 81-1177, for state employees.

Sec. 1078. Section 85-308, Reissue Revised Statutes of Nebraska, is amended to read:

85-308. The purpose of the state colleges is the training and instruction of persons, both male and female, in the arts of teaching and managing schools, the principles and practice of the various branches of learning taught in our public schools, and the arts and sciences generally. The Board of Trustees of the Nebraska State Colleges shall have power to prescribe, for the state college colleges, such courses of instruction as will best fit such persons for teaching and managing the public schools, and their instruction in the arts and sciences generally as provided in sections 79-1422, 79-1429, 85-194, 85-308, 85-606.01, 85-917 to 85-966, and 85-1511 and sections 415 and 418 of this act.

Sec. 1079. Section 85-607, Reissue Revised Statutes of Nebraska, is amended to read:

85-607. No publicly funded college or university in this state shall prohibit the admission of any child educated in any school which elects to meet the requirements of subsections (2) to (4) of section 79-1701 (2) through (5) of section 1004 of this act if the child is qualified for admission as shown by testing results.

Sec. 1080. Section 85-917, Reissue Revised Statutes of Nebraska, is amended to read:

85-917. The Legislature hereby declares that it is the intent and purpose of sections 79-1422, 79-1429, 85-194, 85-308, 85-606.01, 85-917 to 85-966, and 85-1511 and sections 415 and 418 of this act to provide statements of role and mission for the state's systems and institutions of postsecondary education which will:

(1) Provide for a coordinated state system of postsecondary education;

(2) Provide for the maintenance and development of quality postsecondary educational programs and services for all citizens in all regions of the state;

(3) Insure student and community access to comprehensive educational programs;

(4) Limit unnecessary program and facility duplication through a coordinated planning and review process;

(5) Encourage statewide long-term academic and fiscal planning for postsecondary education in the state;

(6) Establish a legislative review process to insure that (a) role and mission statements are updated as necessary and (b) postsecondary institutions are complying with role and mission assignments and are serving a valuable purpose to the state within their current role and mission assignments; and

(7) Provide a mechanism for (a) implementing an extensive change in the scope, role, and mission of a campus, (b) closing a campus, (c) merging campuses, and (d) changing a campus to serve a completely different public purpose.

Sec. 1081. Section 85-933, Reissue Revised Statutes of Nebraska, is amended to read:

85-933. No funds generated or received from a General Fund appropriation, state aid assistance program, or receipts from a tax levy authorized by statute shall be expended in support of programs or activities which are in conflict with the role and mission assignments applicable to the University of Nebraska, state colleges, or community colleges under sections 79-1422, 79-1429, 85-194, 85-308, 85-606.01, 85-917 to 85-966, and 85-1511 and sections 415 and 418 of this act.

Sec. 1082. Section 85-949, Reissue Revised Statutes of Nebraska, is amended to read:

85-949. The role and mission assignments enumerated in sections 85-950 to 85-958 shall apply to the state college system and its institutions. Such assignments shall prohibit, limit, or restrict only those programs or services provided for under such sections. The Board of Trustees of the Nebraska State Colleges shall adopt and promulgate policies and procedures necessary to assure compliance with sections 79-1422, 79-1429, 85-194, 85-308, 85-606.01, 85-917 to 85-966, and 85-1511 and sections 415 and 418 of this act.

Sec. 1083. Section 85-1515, Reissue Revised Statutes of Nebraska, is amended to read:

85-1515. Each board may issue and sell revenue bonds and general obligation bonds for the purchase, construction, reconstruction, equipping, demolition, or alteration of capital assets, including accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-4,297 756 of this act, and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances and other facilities connected with the operation of the community colleges. Each board may establish in its budget a capital improvement and bond sinking fund. Such fund shall be used (1) first for the retirement of bonds assumed by the board in accordance with the provisions of such bonds, (2) then for (a) renewal work and deferred maintenance as defined in section 81-173, (b) handicapped access and life safety improvements made to existing structures or grounds including accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-4,297 756 of this act, and (c) projects designed to prevent or correct a waste of energy, including measures taken to utilize alternate energy sources, all in accordance with the capital facilities plan of the community college area, (3) then for the retirement of bonds issued pursuant to this section, and (4) then for the purchasing, purchasing on contract, constructing, and improving of facilities necessary to carry out sections 85-1501 to 85-1540. Revenue bonds issued shall be subject to sections 85-1520 to 85-1527. No general obligation bonds shall be issued without the approval by a majority vote of the qualified electors of the community college area voting in an election called for such purpose pursuant to section 85-1518. No bonds issued under sections 85-1501 to 85-1540 shall be an obligation of the State of Nebraska, and no state tax shall be levied to raise funds for the payment thereof or interest thereon.

Sec. 1084. Section 85-1517, Revised Statutes Supplement, 1995, is amended to read:

85-1517. (1) The board may certify to the county board of equalization of each county within the community college area a tax levy of not to exceed nine cents on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, for the purpose of supporting operating expenditures of the community college area.

(2)(a) In addition to the levy provided in subsection (1) of this section, the board may also certify to the county board of equalization of each county within the community college area a tax levy of not to exceed one and eight-tenths cents on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, for the purpose of establishing a capital improvement fund and bond sinking fund as provided in section 85-1515.

(b) In addition to the levy provided in subdivision (a) of this subsection, the board may also certify to the county board of equalization of each county within the community college area a tax levy on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, in the amount which will produce funds only in the amount necessary to pay for funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-4,297 756 of this act. Such tax levy shall not be so certified unless approved by an affirmative vote of a majority of the board taken at a public meeting of the board following notice and a hearing as provided in section 77-3439.

(3) Except as provided by subsection (4) of this section, the levy provided in subsection (1) of this section shall not exceed nine cents on each

one hundred dollars on the taxable valuation of all property within the community college area without prior approval by a majority vote of the qualified electors of the community college area voting in an election called for such purpose pursuant to section 85-1518.

(4) The tax levy limit provided in subsection (1) of this section may be exceeded by a seventy-five percent vote of the board. The tax levy increase permitted under this subsection shall not exceed and shall be the lesser of an additional two and one-half cents on each one hundred dollars of the taxable valuation of all property within the community college area or an amount sufficient to fund the local tax receipt portion of the total budget increase permitted under any budget increase limitation which is imposed by law and which is applicable to such area. The changes made to this subsection by Laws 1990, LB 1050, are expressly intended to apply to all litigation concerning any vote taken pursuant to this subsection prior to July 10, 1990, including all litigation pending on such date.

(5) The levy provided by subdivision (2)(a) of this section may be exceeded by that amount necessary to retire the general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds.

(6) Such tax shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of such tax, as collected, shall be remitted to the treasurer of the board not less frequently than once each month.

Sec. 1085. (1) Every student and teacher in colleges, universities, or other postsecondary educational institutions shall wear appropriate industrial-quality eye protective devices at all times while participating in or observing the following courses of instruction:

(a) Vocational, technical, industrial arts, chemical, or chemical-physical, involving exposure to:

(i) Hot molten metals or other molten materials;  
(ii) Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;

(iii) Heat treatment, tempering, or kiln firing of any metal or other materials;

(iv) Gas or electric arc welding or other forms of welding processes;

(v) Repair or servicing of any vehicle; or  
(vi) Caustic or explosive materials; and  
(b) Chemical, physical, or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations, or other hazards not enumerated.

Such devices may be furnished by the postsecondary educational institution for all students and teachers, purchased and sold at cost to students and teachers, or made available for a moderate rental fee and shall be furnished for all visitors to shops and laboratories of such institutions.

(2) For purposes of this section, unless the context otherwise requires, industrial-quality eye protective devices means devices which meet the standard of the American National Standard Practice for Occupational and Educational Eye and Face Protection, Z 87.1(1979) as approved by the American National Standards Institute, Inc.

(3) The Commissioner of Education shall prepare and circulate to each public and private postsecondary educational institution in this state instructions and recommendations for implementing the eye safety provisions of this section.

Sec. 1086. Sections 1086 to 1096 of this act shall be known and may be cited as the Nebraska Equal Opportunity in Postsecondary Education Act.

Sec. 1087. For purposes of the Nebraska Equal Opportunity in Postsecondary Education Act:

(1) Educational institution means the University of Nebraska, the state colleges, and the community colleges; and

(2) Governing board means the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, and the community college boards of governors.

Sec. 1088. The Legislature finds and declares that it is an unfair or discriminatory practice for any educational institution to discriminate on the basis of sex in any program or activity. Such discriminatory practices include, but are not limited to, the following practices:

(1) Exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic, extracurricular, research, occupational training, or other program or activity, except athletic programs;

(2) Denial of comparable opportunity in intramural and

interscholastic athletic programs:

(3) Discrimination among persons in employment and the conditions of such employment; and

(4) The application of any rule which discriminates on the basis of (a) the pregnancy of any person, (b) the marital status of any person, or (c) the condition of being a parent. Rules requiring certification of a physician's diagnosis and such physician's recommendation as to what activities a pregnant person may participate in are permissible. For purposes of this section marital status shall include the condition of being single, married, widowed, or divorced.

Sec. 1089. The governing boards of educational institutions shall adopt and promulgate rules and regulations needed to carry out the Nebraska Equal Opportunity in Postsecondary Education Act. Governing boards of educational institutions, with the advice of staff, shall formulate activities and programs needed to carry out the act.

Sec. 1090. (1) Any person aggrieved by a violation of the Nebraska Equal Opportunity in Postsecondary Education Act or any rule, regulation, or procedure adopted pursuant to the act may file a complaint with the governing board of the educational institution committing such violation. Such complaint shall be made in writing, under oath, within one hundred eighty days after such alleged violation, and shall set forth the claimant's address and the facts of such alleged violation with sufficient particularity as to permit the governing board to understand and investigate the conduct complained of.

(2) The governing board may take such action as may be necessary to correct such violation, including, but not limited to, (a) terminating the discriminatory practice or policy complained of and (b) awarding to the aggrieved person or persons such compensatory money damages as the particular facts and circumstances may warrant.

(3) The governing board shall dispose of the complaint and shall notify the claimant of its finding. All dispositions of such complaints shall be in writing and signed by the chief officer of the governing board, and a true copy of such disposition shall be mailed by certified mail, return receipt requested, to the claimant at the address set forth on the complaint or at such other address as may be filed by the claimant with the governing board. The claimant shall notify the governing board of any change of address, and the governing board has no duty to attempt to locate any claimant who has failed to advise such board of a change of address.

Sec. 1091. If the claimant under section 1090 of this act elects to accept the written disposition of the complaint made by the governing board under such section, he or she shall notify such board in writing of his or her acceptance within sixty days after receipt of such disposition, at which time such disposition shall be deemed final and conclusive. A failure to notify the board of such acceptance within the time period provided in this section shall be deemed a rejection of such disposition.

Sec. 1092. If the claimant under section 1090 of this act elects not to accept the written disposition of such complaint made by the governing board under such section, he or she may, within one hundred eighty days after receipt of such disposition, file an original action in the district court of the judicial district where such educational institution is located, for equitable relief and compensatory money damages. If such action includes a claim for money damages, such claimant shall be entitled to a trial by jury as to such claim for damages, unless he or she expressly waives in writing such trial by jury.

Sec. 1093. If the governing board fails to dispose of any written complaint filed pursuant to the Nebraska Equal Opportunity in Postsecondary Education Act within one hundred eighty days after the date of filing, such complaint may be withdrawn by the claimant and he or she may then proceed to file an original action in the district court of the judicial district where such educational institution is located pursuant to section 1092 of this act. Such action must be filed within two years of the date of the filing of such complaint.

Sec. 1094. No original action asserting a violation of the Nebraska Equal Opportunity in Postsecondary Education Act may be filed in any district court unless a complaint asserting such violation is first filed with the governing board of the educational institution committing such discriminatory act or practice and disposed of or withdrawn as provided in the act.

Sec. 1095. The Nebraska Equal Opportunity in Postsecondary Education Act does not prohibit a person asserting a claim for discrimination in employment or the conditions thereof from filing a complaint pursuant to the Nebraska Fair Employment Practice Act. Filing a complaint pursuant to the Nebraska Fair Employment Practice Act constitutes a waiver of any right to seek relief pursuant to the Nebraska Equal Opportunity in Postsecondary

Education Act, and filing a complaint pursuant to the Nebraska Equal Opportunity in Postsecondary Education Act constitutes a waiver of any right to seek relief pursuant to the Nebraska Fair Employment Practice Act.

Sec. 1096. The Nebraska Equal Opportunity in Postsecondary Education Act does not prohibit any educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes.

Sec. 1097. Section 90-511, Revised Statutes Supplement, 1995, is amended to read:

90-511. AGENCY NO. 13 -- STATE DEPARTMENT OF EDUCATION  
 Program No. 25 - Departmental Administration

	FY1995-96	FY1996-97
GENERAL FUND	551,150,898	576,164,937
CASH FUND	2,124,426	2,157,833
FEDERAL FUND est.	135,903,879	141,677,603
REVOLVING FUND	444,311	446,075
PROGRAM TOTAL	689,623,514	720,446,448
SALARY LIMIT	7,445,909	7,412,575

There is included in the appropriation to this program for FY1995-96 \$544,627,785 General Funds, \$348,852 Cash Funds, and \$127,756,527 Federal Funds estimate for state aid, which shall only be used for such purpose. There is included in the appropriation to this program for FY1996-97 \$569,352,621 General Funds, \$350,690 Cash Funds, and \$133,442,975 Federal Funds estimate for state aid, which shall only be used for such purpose.

There is included in the amount shown for FY1995-96 \$123,000 General Funds for the reimbursement of transportation costs pursuant to section 79-3410 for the enrollment option program. There is included in the amount shown for FY1996-97 \$123,000 General Funds for the reimbursement of transportation costs pursuant to section 79-3410 45 of this act for the enrollment option program.

There is included in the amount shown for FY1995-96 \$125,045,404 General Funds which are hereby appropriated to the School District Income Tax Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act. There is included in the amount shown for FY1996-97 \$125,045,404 General Funds which are hereby appropriated to the School District Income Tax Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act.

There is included in the amount shown for FY1995-96 \$289,888,410 General Funds which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act. There is included in the amount shown for FY1996-97 \$311,625,913 General Funds which are hereby appropriated to the Tax Equity and Educational Opportunities Fund, which fund is hereby appropriated to provide state aid to public school districts pursuant to the Tax Equity and Educational Opportunities Support Act.

There is included in the amount shown for FY1995-96 \$6,895,000 General Funds which are hereby appropriated to the Educational Excellence Fund, which fund is hereby appropriated for the Help Education Lead to Prosperity Act. There is included in the amount shown for FY1996-97 \$6,895,000 General Funds which are hereby appropriated to the Educational Excellence Fund, which fund is hereby appropriated for the Help Education Lead to Prosperity Act.

There is included in the appropriation to this program for FY1995-96 \$121,293,312 General Funds for special education reimbursement. There is included in the appropriation to this program for FY1996-97 \$124,325,645 General Funds for special education reimbursement.

There is included in the appropriation to this program \$207,525 General Funds provided as state aid in FY1995-96 and \$162,525 General Funds provided as state aid in FY1996-97 to carry out the provisions of subsection (2) of section 79-4,118 408 of this act.

There is included in the appropriation to this program \$435,000 General Funds provided as state aid in FY1995-96 and \$435,000 General Funds provided as state aid in FY1996-97 for early childhood education projects.

There is included in the appropriation to this program \$50,000 General Funds for FY1995-96 and \$50,000 General Funds for FY1996-97 to be used only for the purpose of matching donations from business and other sources to initiate pilot technology projects.

The unexpended General Fund appropriation existing on June 30, 1995, from Laws 1992, LB 245A, is hereby reappropriated to be used for the Nebraska

Schools Accountability Commission in FY1995-96.

The unexpended General Fund balance existing on June 30, 1995, in this program and in Program No. 440, Educational Services, is hereby reappropriated to this program for FY1995-96 in an amount not to exceed \$350,000 to provide General Funds to be used for the Nebraska Diagnostic Resource Center. It is the intent of the Legislature that the State Department of Education shall study the role and financing of the Nebraska Diagnostic Resource Center and make recommendations to the Appropriations Committee by November 1, 1995, regarding the future role and funding of the center with non-General Funds.

It is the intent of the Legislature that the Department of Social Services shall transfer \$700,000 Federal Funds in FY1995-96 and \$700,000 Federal Funds in FY1996-97 from the federal Child Care and Development Block Grant, to the State Department of Education, Program No. 25, for training, quality, and enhancement activities related to the provision of child care and early childhood education in the state.

On or before October 1 of each year, the Department of Social Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to school districts pursuant to the Early Intervention Act for special education services for children age five years and older. The General Fund appropriation to the State Department of Education, Program No. 25, for state special education aid shall be decreased by an amount equal to the amount that would have been reimbursed with state General Funds to the school districts through the special education reimbursement process for special education services for children age five years and older that was paid to school districts or approved cooperatives with federal medicaid funds. There is hereby appropriated from the General Fund an amount equal to the amount certified to the budget administrator for FY1995-96 and FY1996-97 to the Department of Social Services, to aid in carrying out the provisions of Laws 1991, LB 701. Of the amount appropriated, ten percent shall be appropriated to the department for Program No. 348, and ninety percent shall be appropriated to the department for Program No. 341.

At the direction of the budget administrator of the budget division of the Department of Administrative Services, any funds appropriated to this program for general salary increases for teachers at schools operated by the Department of Correctional Services, the State Department of Education, the Department of Public Institutions, the Beatrice State Developmental Center, or the Lincoln Regional Center shall be administratively transferred to the state agency employing such teachers. The State Department of Education shall certify to the budget division of the Department of Administrative Services the appropriations to be transferred pursuant to this section. The expenditure limitation for permanent and temporary salaries and per diems shall be increased within the appropriate state agency program to allow for the expenditure for personal services.

It is the intent of the Legislature that the revenue raised pursuant to the increases in the income tax rate and sales tax rate provided in Laws 1990, LB 1059, shall be appropriated to school districts as state aid in FY1995-96 and FY1996-97 for purposes of the Tax Equity and Educational Opportunities Support Act.

The Department of Revenue and the Legislative Fiscal Analyst shall annually prepare a joint report showing the revenue collected from such tax rate increases for the preceding fiscal year. A copy of the report shall be provided to the Clerk of the Legislature by December 1 of each year.

Continuing in FY1995-96, if the proceeds from such tax rate increases according to the joint report are greater than the amount appropriated by the Legislature to correspond to such tax rate increases, the difference between such amounts shall be appropriated for purposes of the Tax Equity and Educational Opportunities Support Act in the following fiscal year. Such appropriation shall be in addition to other General Funds allocated as aid for purposes of the act.

If the proceeds from such tax rate increases according to the joint report are less than the amount appropriated by the Legislature to correspond to such tax rate increases, the difference between such amounts shall be subtracted from the appropriation for purposes of the Tax Equity and Educational Opportunities Support Act in the following fiscal year.

Sec. 1098. Original sections 2-4722, 10-209, 13-903 to 13-907, 13-909, 13-912, 13-913, 13-915, 13-917, 13-918, 13-923 to 13-925, 29-2271, 29-2272, 30-3209, 43-2007, 43-2505, 43-2507.02, 43-2512, 48-233, 58-238, 58-319, 58-412, 71-1623, 73-106, 79-101 to 79-102.02, 79-105, 79-106, 79-201 to 79-202, 79-205 to 79-211, 79-213 to 79-216, 79-301, 79-304, 79-305, 79-307,

79-321, 79-321.01, 79-321.03, 79-322 to 79-333, 79-339, 79-342 to 79-345, 79-401, 79-402, 79-402.03 to 79-402.20, 79-403 to 79-403.03, 79-406 to 79-426.19, 79-426.22 to 79-426.28, 79-428 to 79-430, 79-432 to 79-435, 79-437.03, 79-438.12, 79-438.13, 79-439, 79-440, 79-441, 79-442.01 to 79-443.01, 79-444.01 to 79-444.05, 79-444.07, 79-445, 79-446, 79-449.01, 79-450 to 79-461, 79-466 to 79-467.01, 79-469, 79-470, 79-478 to 79-488.01, 79-488.03 to 79-492, 79-4,105.01, 79-4,106.01 to 79-4,107, 79-4,114, 79-4,117, 79-4,119 to 79-4,123, 79-4,125 to 79-4,127, 79-4,128.01, 79-4,128.02, 79-4,133 to 79-4,150, 79-4,152 to 79-4,159, 79-4,170 to 79-4,176, 79-4,177 to 79-4,179, 79-4,181 to 79-4,194, 79-4,197 to 79-4,205.02, 79-4,207, 79-4,221, 79-4,222, 79-4,224 to 79-4,247, 79-501 to 79-504, 79-505, 79-507 to 79-512, 79-516.01, 79-516.04, 79-516.06, 79-516.08, 79-519, 79-521, 79-530, 79-532 to 79-538, 79-541 to 79-545, 79-546.01, 79-547.02, 79-547.04, 79-550, 79-552, 79-601 to 79-604, 79-606 to 79-610, 79-701, 79-703.01, 79-801 to 79-802, 79-803.03, 79-803.05, 79-803.11, 79-805, 79-807, 79-809, 79-810.01, 79-901, 79-902.01, 79-904, 79-906 to 79-912, 79-1001 to 79-1003.02, 79-1003.04 to 79-1004.04, 79-1005 to 79-1007.05, 79-1033, 79-1035 to 79-1039, 79-1041, 79-1042, 79-1044, 79-1047 to 79-1049.05, 79-1050 to 79-1051.02, 79-1051.05, 79-1051.07, 79-1052, 79-1056.05, 79-1058, 79-1060 to 79-1070, 79-1101, 79-1103, 79-1103.05 to 79-1111, 79-1229, 79-1236, 79-1239, 79-1240, 79-1247.03, 79-1247.04, 79-1247.06 to 79-1247.11, 79-1247.13, 79-1247.16, 79-1248 to 79-1253, 79-1254.01 to 79-1254.03, 79-1254.05 to 79-1254.10, 79-1268, 79-1269, 79-1272 to 79-1286, 79-1297 to 79-12,121.03, 79-12,153, 79-1301 to 79-1313, 79-1315 to 79-1328, 79-1346, 79-1369, 79-1371 to 79-1374, 79-1384, 79-1385, 79-1415, 79-1416, 79-1418 to 79-1423, 79-1428, 79-1429, 79-1435.01 to 79-1435.03, 79-1446 to 79-1457, 79-1501, 79-1502, 79-1503.02, 79-1505, 79-1506, 79-1508 to 79-1509.03, 79-1510 to 79-1514.02, 79-1514.05, 79-1514.06, 79-1515 to 79-1522.02, 79-1523 to 79-1530, 79-1532 to 79-1538, 79-1540, 79-1542, 79-1544 to 79-1546, 79-1548 to 79-1553, 79-1556 to 79-1567, 79-1701, 79-1701.01, 79-1703 to 79-1707, 79-1901 to 79-1904, 79-1907, 79-1908, 79-1911, 79-1913 to 79-1915, 79-2001 to 79-2007, 79-2010 to 79-2012, 79-2101 to 79-2103, 79-2104, 79-2105, 79-2106.01, 79-2109 to 79-2114, 79-2201 to 79-2202, 79-2202.02 to 79-2203, 79-2203.02 to 79-2209, 79-2210.01 to 79-2210.04, 79-2212 to 79-2221, 79-2301 to 79-2315, 79-2317, 79-2501 to 79-2504, 79-2701 to 79-2703, 79-3001 to 79-3011, 79-3302 to 79-3318, 79-3320, 79-3321, 79-3323, 79-3324, 79-3326 to 79-3331, 79-3332.01, 79-3334, 79-3335, 79-3337 to 79-3362, 79-3364, 79-3365, 79-3367, 79-3369, 79-3370, 79-3401 to 79-3410, 79-3412 to 79-3417, 79-3501 to 79-3509.01, 79-3509.03, 79-3510, 79-3601 to 79-3606, 79-3701 to 79-3703, 79-3802, 79-3805, 79-3807, 79-3808, 79-3810, 79-3811, 79-3815, 79-3817, 79-3818, 79-3820 to 79-3822, 79-3824, 79-3901 to 79-3906, 79-3908 to 79-3910, 79-4001 to 79-4004, 83-382, 83-1225, 84-1301, 84-1408, 84-1410, 84-1412, 84-1414, 85-104, 85-308, 85-607, 85-917, 85-933, 85-949, and 85-1515, Reissue Revised Statutes of Nebraska, sections 13-501, 13-910, 32-312, 32-511, 32-515, 32-541 to 32-546, 32-567, 72-1237.01, 77-2341, and 77-2704.12, Revised Statutes Supplement, 1994, and sections 9-812, 13-508, 43-2513, 43-2620, 71-1910, 72-801, 77-3438, 77-3439, 79-340, 79-346, 79-347, 79-348, 79-349, 79-444, 79-444.06, 79-4,118, 79-4,169, 79-4,176.01, 79-4,179.01, 79-4,180, 79-4,195, 79-4,196, 79-4,248, 79-810, 79-903, 79-1032, 79-1034, 79-1040, 79-1043, 79-1044.01, 79-1045, 79-1046, 79-1046.01, 79-1049.06, 79-1056, 79-1056.06, 79-1233, 79-1247.05, 79-1345, 79-1501.01, 79-1503, 79-1503.01, 79-1514.10, 79-1514.11, 79-1522.04, 79-1522.05, 79-1531, 79-1910.01, 79-2009.01, 79-2103.01, 79-2106, 79-2107, 79-2108, 79-2210, 79-2225, 79-3301, 79-3322, 79-3325, 79-3332, 79-3333, 79-3333.01, 79-3363, 79-3366, 79-3368, 79-3371, 79-3509.02, 79-3801, 79-3803, 79-3804, 79-3806 to 79-3806.02, 79-3809, 79-3811.01 to 79-3814, 79-3816, 79-3819, 79-3823, 83-121, 84-304, 84-1503.01, 84-1511, 85-1517, and 90-511, Revised Statutes Supplement, 1995, are repealed.

Sec. 1099. The following sections are outright repealed: Sections 79-445.01, 79-522, 79-703, 79-806, 79-905, 79-1112, 79-1916 to 79-1919, 79-2222 to 79-2224, 79-3319, and 79-3907, Reissue Revised Statutes of Nebraska.