

LEGISLATIVE BILL 345

Approved by the Governor March 10, 1997

Introduced by Bohlke, 33; McKenzie, 34

AN ACT relating to schools; to amend sections 53-138.01, 66-528 to 66-530, 79-101, 79-102, 79-104, 79-406, 79-407, 79-411, 79-420, 79-423, 79-447, 79-451, 79-472, 79-473, 79-4106, 79-510, 79-519, 79-540, 79-543, 79-548, 79-549, 79-565, 79-569, 79-574, 79-576, 79-594, 79-1029, 79-1035, 79-1099, 79-10101, 79-10103, 79-10105, 79-10111 to 79-10113, 79-10117, 79-10118, 79-10121, 79-10122, 79-10125, 79-1207, 79-1217, 79-1405, and 79-1406, Reissue Revised Statutes of Nebraska; to define and redefine terms; to provide for funds; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

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

Section 1. Section 53-138.01, Reissue Revised Statutes of Nebraska, is amended to read:

53-138.01. The State Treasurer shall credit twenty-five dollars of each state registration fee to the General Fund and the remaining five dollars to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund to be used for providing licenses with materials pursuant to section 53-117.05. All retail license fees received by the city or village treasurer, as the case may be, shall inure to the school fund of the district lying wholly or partially within the corporate limits of such city or village. The State Treasurer shall credit all license fees received by the commission for licenses issued pertaining to alcoholic liquors liquor, including beer, to the temporary school fund to be used for the support of the common schools as provided in Article VII, section 5, of the Constitution of Nebraska. All retail license fees received by the county treasurer, as provided in section 53-124, shall be credited to the school fund of the county.

Sec. 2. Section 66-528, Reissue Revised Statutes of Nebraska, is amended to read:

66-528. Final judgment of conviction in a criminal action brought under section 66-527 shall be in all cases a bar to any suits for the recovery of the fuel transported thereby or other personal property actually and directly used in connection therewith, or the value of the same, or for damages alleged to arise by reason of the seizing of such vehicle and the fuel contained therein, and upon conviction judgment shall be entered directing that the fuel transported and other personal property actually and directly used in connection with such violation may be put to official use by the confiscating agency for a period of not more than two years or shall be ordered sold by the court at public sale on ten days' notice, and the remaining proceeds, after the motor vehicle fuel or diesel fuel tax and cost of collection have been remitted to the appropriate fund or person, shall be remitted into the temporary school fund to be used for the support of the common schools as in the case of fines and forfeitures. The purchaser of such fuel or property shall take title thereto free and clear of all rights, title, and interest of all persons claiming to be owners thereof or claiming to have liens thereon.

Sec. 3. Section 66-529, Reissue Revised Statutes of Nebraska, is amended to read:

66-529. The court, upon conviction of the person so arrested, unless good cause to the contrary is shown by the owner or lienor, shall order a sale by public auction of the vehicle seized or the vehicle may be put to official use by the confiscating agency for a period of not more than two years. The officer making the sale, after deducting the expenses of keeping the vehicle, the fee for the seizure, and the cost of sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at such hearing or in other proceedings brought for such purpose, as being bona fide and having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of motor vehicle fuel or diesel fuel and shall pay the balance of the proceeds into the temporary school fund to be used for the support of the common schools as in the case of fines and forfeitures. Notice of the hearing upon the proceedings for the forfeiture and confiscation of such vehicle shall be given all interested parties by publication in one issue of a legal newspaper published in the county or, if such newspaper is not published in the county, in a legal newspaper of general circulation in the county at

least ten days prior to the date of hearing.

Sec. 4. Section 66-530, Reissue Revised Statutes of Nebraska, is amended to read:

66-530. If the person operating the vehicle used for the unlawful transportation of motor vehicle fuel or diesel fuel is not apprehended or arrested, the officer or agent shall take the vehicle and fuel into custody, a complaint shall be filed charging that the vehicle was so unlawfully used, and the court shall fix a time for hearing upon the complaint. Notice of the hearing shall be given to all persons interested by publication at least ten days before the hearing in a legal newspaper published in such county or, if none is published in the county, in a legal newspaper of general circulation in the county. If the court finds at such hearing that such vehicle was used for the unlawful transportation of motor vehicle fuel or diesel fuel, judgment shall be entered directing that the fuel conveyed and any other personal property actually and directly used in connection with such violation shall be ordered sold by the court at a public sale on ten days' notice. The remaining proceeds, after the state motor vehicle fuel or diesel fuel tax and cost of collection have been remitted to the appropriate fund or person, shall be paid into the temporary school fund to be used for the support of the common schools as in the case of fines and forfeitures, and like proceedings shall be had against the vehicle as provided in section 66-529 where the person in charge is arrested and convicted.

Sec. 5. Section 79-101, Reissue Revised Statutes of Nebraska, is amended to read:

79-101. For purposes of Chapter 79:

(1) School district means the territory under the jurisdiction of a single school board authorized by Chapter 79;

(2) School means a school under the jurisdiction of a school board authorized by Chapter 79;

(3) Legal voters or electors means all who are eligible to vote at an election for school district officers voter means a registered voter as defined in section 32-115 who is domiciled in a precinct or ward in which he or she is registered to vote and which precinct or ward lies in whole or in part within the boundaries of a school district for which the registered voter chooses to exercise his or her right to vote at a school district election or at an annual or special meeting of a Class I or II school district;

(4) Prekindergarten programs 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 means grades kindergarten through eight, inclusive;

(6) High school grades means all grades above the eighth grade;

(7) School year 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 means a period of time, at least sixty minutes, which is actually used for the instruction of students;

(9) Teacher means any certified employee who is regularly employed for the instruction of pupils in the public schools;

(10) Administrator means any certified employee such as superintendent, assistant superintendent, principal, assistant principal, school nurse, or other supervisory or administrative personnel who do not have as a primary duty the instruction of pupils in the public schools;

(11) School board or board of education means the governing body of any school district. Board of education has the same meaning as school board; and

(12) Teach 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;

(13) Permanent school fund means the fund described in section 31 of this act;

(14) Temporary school fund means the fund described in section 32 of this act; and

(15) School lands means the lands described in section 33 of this act. Educational lands has the same meaning as school lands.

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. 6. 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 includes any school district that maintains only elementary grades under the direction of a single school board;

(2) Class II 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 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 school board;

(4) Class IV 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 school board;

(5) Class V 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 school board; and

(6) Class VI 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 79-411, under the direction of a single school board.

Sec. 7. Section 79-104, Reissue Revised Statutes of Nebraska, is amended to read:

79-104. Whenever any 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 reclassify such district as a district of the next higher class. A Class III school district may be reclassified as a Class II school district 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. 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 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 legal voters in the school district reside, of such change in classification and the effective date of such change.

Sec. 8. Section 79-406, Reissue Revised Statutes of Nebraska, is amended to read:

79-406. 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 legal 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 regular meeting of the board in January following the next statewide general election. The Class II school district school board shall be elected pursuant to section 32-542.

Sec. 9. Section 79-407, Reissue Revised Statutes of Nebraska, is amended to read:

79-407. The territory 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. 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 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 school board of education of the new school district shall have exclusive control of such buildings and real or personal property for all purposes contemplated in this section, except as provided in section 79-473.

Sec. 10. Section 79-411, Reissue Revised Statutes of Nebraska, is

amended to read:

79-411. The ~~electors~~ legal voters 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 a 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~~ Such election shall be conducted by the county clerk or election commissioner in accordance with the Election Act. If the issue receives such fifty-five percent majority affirmative vote, the school district shall then be known as a Class VI junior-senior high school district and 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 legal voters 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. 11. Section 79-420, Reissue Revised Statutes of Nebraska, is amended to read:

79-420. Within thirty days after the creation of a new school district pursuant to sections 79-413 to 79-419, the county committee for the reorganization of school districts shall appoint from among the qualified electors legal voters 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 shall be appointed by the joint action of the county 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 so appointed shall ~~proceed at once to organize at once~~ 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 79-413, 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. 12. Section 79-423, Reissue Revised Statutes of Nebraska, is amended to read:

79-423. 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 legal 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.~~

Sec. 13. Section 79-447, Reissue Revised Statutes of Nebraska, is amended to read:

79-447. (1) Not less than thirty nor more than sixty days after the designation of a final approved plan under section 79-446, the proposition of the adoption or rejection of the proposed plan of reorganization shall be submitted at a special election to all the electors legal voters 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 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 legal voters 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 shall be held and conducted by the county clerk or election commissioner, and the

expense of such election 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 legal voters of the territory of the proposed school district. The election shall be held at a place or places within the proposed district 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 legal voters residing in the proposed district in one county stands to the whole number of electors legal voters 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 legal voters voting within each voting unit included in the proposed plan.

Sec. 14. Section 79-451, Reissue Revised Statutes of Nebraska, is amended to read:

79-451. Within thirty days after the classification of the reorganized school districts by the county superintendent of schools, the county committee shall appoint from among the qualified electors legal voters 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 school board not later than April 1 following the last legal action, as prescribed in section 79-450, 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 committees involved.

In appointing the first school board of a Class II school district, the members shall be appointed so that the terms of three members expire on the date of the first regular meeting of the board in January after the first even-numbered year following their appointment and the terms of the three remaining members expire on the date of the first regular meeting of the board in January after the second even-numbered year following their appointment. At the statewide general election in the first even-numbered year after the reorganization, 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 date of the first regular meeting of the board in January following his or her election.

In appointing the first school 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 school 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 district school 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.

Sec. 15. Section 79-472, Reissue Revised Statutes of Nebraska, is amended to read:

79-472. (1)(a) If a Class II school district, by a vote of fifty-five percent of the qualified legal voters voting at an annual or special meeting, decides to discontinue and close the high school, the school district shall become an affiliated Class I school district on the date designated by such legal voters. Affiliation shall be accomplished pursuant to sections 79-413 to 79-427. 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 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 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 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 79-565, 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.

(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. 16. Section 79-473, Reissue Revised Statutes of Nebraska, is amended to read:

79-473. (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 79-407 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 school board of education of the Class IV or V school district and a majority of the members of the school 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 79-407, the affected school board or board of education 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 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 legal 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. 17. Section 79-4,106, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,106. (1) To receive matching funds for reorganization studies, two or more contiguous school districts shall adopt by majority vote of the membership of each participating school board a study proposal and submit such proposal to the State Board of Education for approval.

(2) The proposal shall include the study and analysis of:

(a) Past and projected enrollment trends and other student demographic characteristics and special service needs;

(b) School facilities;

(c) Educational programs;

(d) Student transportation systems and needs;

(e) Financial resources available from local, state, and federal sources;

(f) Personnel characteristics, capabilities, and assignments; and

(g) Other considerations.

(3) The final study report shall include:

(a) An analysis of the data studied, findings, and recommendations;

(b) A plan for the reorganization of the participating school

districts; and

(c) A timeline for the implementation of the plan.

(4) Upon selection of the study consultant and approval of the State Board of Education of the study proposal and the consultant's study proposal, the participating school districts shall receive collectively one-fourth of the cost of the study, but not more than two thousand five hundred dollars.

(5) Upon approval of a reorganization plan by the school boards and legal voters of the participating school districts, the participating school districts shall receive collectively an additional one-fourth of the cost of the study, but not more than two thousand five hundred dollars.

Sec. 18. Section 79-510, Reissue Revised Statutes of Nebraska, is amended to read:

79-510. When both the study and the proposed plan required by sections 79-506 to 79-508 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 legal voters of the district at a general school election or at a special election called for that purpose. If a majority of the legal voters voting on the proposal are in favor 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 legal voters until a new study and plan of operation have been submitted to and approved by the State Board of Education.

Sec. 19. Section 79-519, Reissue Revised Statutes of Nebraska, is amended to read:

79-519. The qualified legal voters of a Class I or Class II school district may also give such directions and make such provisions as they deem necessary in relation to the prosecution or defense of any proceeding in which the district may be a party or interested.

Sec. 20. Section 79-540, Reissue Revised Statutes of Nebraska, is amended to read:

79-540. If any person offering to vote at any Class I, II, III, IV, or VI school district meeting or election is challenged as unqualified by any registered voter in legal voter of such school district, the chairperson presiding at such meeting or a judge at such election shall explain to the person challenged the qualifications of a legal voter. If such person states that he or she is qualified and the challenge is not withdrawn, the chairperson or judge shall administer an oath, 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. 21. Section 79-543, Reissue Revised Statutes of Nebraska, is amended to read:

79-543. 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 legal voter in such district.

Sec. 22. Section 79-548, Reissue Revised Statutes of Nebraska, is amended to read:

79-548. The qualified legal 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 school 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 79-565. All teachers elected by such a district must meet the same qualifications as do the teachers in Class II districts.

Sec. 23. Section 79-549, Reissue Revised Statutes of Nebraska, is amended to read:

79-549. (1) The board of education of a Class III school district of which When more than seventy-five percent of the geographical area of a Class III school district lies within a city of the metropolitan class, the school board of the Class III district 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 79-559. Until the registered legal 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 legal 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 school board of education a written statement accepting the nomination. The secretary of the school 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 legal voters residing within the school district shall be permitted to vote at such election.

(2) The school board of education may place before the registered legal voters of the school district the issue of whether to continue to have a caucus for nominations by adopting a resolution to ~~do so~~ place the issue before the legal voters 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 legal 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 legal 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 legal 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 legal voters;

(c) Election security which will provide for a fair and impartial election, including the secrecy of the ballot, one vote per registered legal voter, and only registered legal voters of the school district being allowed to vote;

(d) Equal access to all registered legal 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 legal voters of the school district;

(e) Adequate time and opportunity for registered legal 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 school board of education.

The rules and regulations shall be approved by the election commissioner or county clerk prior to use for a caucus.

Sec. 24. Section 79-565, Reissue Revised Statutes of Nebraska, is amended to read:

79-565. (1) The qualified legal voters of every new Class I school district, when assembled pursuant to legal notice, shall elect by ballot from the qualified legal 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 successors shall be elected for 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 Class I districts, as referred to in subsection (1) of this section, shall continue and discharge the duties of their offices until the expiration of their terms. Their successors shall be elected for terms of three years.

(3) In any 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 legal 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~~ Legal voters at such meeting and 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 for terms of three years and until their successors have been elected and qualified. The terms of members of the school board in such a district shall begin on the second Monday of September, and 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 the election or cause the election to be conducted the election referred to in such subsection and (b) record the names and residences of persons voting 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. 25. Section 79-569, Reissue Revised Statutes of Nebraska, is amended to read:

79-569. The president of the school board ~~or board of education~~ of a Class I, II, III, IV, or VI school district shall: (1) Preside at all meetings of the district; (2) 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) administer the oath to the secretary and treasurer of the district when such an oath is required by law in the transaction of the business of the district; and (4) perform such other duties as may be required by law of the president of the board. He or she is entitled to vote on any issue that may come before any meeting. If the president is absent from any district meeting, the qualified legal voters present may elect a suitable person to preside at the meeting.

Sec. 26. Section 79-574, Reissue Revised Statutes of Nebraska, is amended to read:

79-574. For at least ten days prior to an election in a Class V school district, the president of the board of education shall publish his or her proclamation to the qualified legal voters of the school district in at least one daily 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. 27. Section 79-576, Reissue Revised Statutes of Nebraska, is amended to read:

79-576. The secretary of a Class I, II, III, IV, or VI school district shall be clerk of the school board ~~or board of education~~ and of all district meetings when present, but if he or she is not present the qualified legal 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. 28. Section 79-594, Reissue Revised Statutes of Nebraska, is amended to read:

79-594. 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 deems best and may enter into contract with him or her at its discretion, for a term not to exceed three years.

Sec. 29. Section 79-1029, Reissue Revised Statutes of Nebraska, is amended to read:

79-1029. (1) A district may exceed by an additional one percent the applicable allowable growth percentage prescribed in section 79-1026 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) Except for fiscal years 1996-97 and 1997-98, a district may exceed the applicable allowable growth percentage prescribed in section 79-1026 by an amount approved by a majority of registered legal 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 legal voters of the district. The recommendation of the board or the petition of the legal 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 after the receipt of such board recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the district.

Sec. 30. Section 79-1035, Reissue Revised Statutes of Nebraska, is amended to read:

79-1035. (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 permanent school fund and the temporary 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 after such delivery, the Commissioner of Education shall make the apportionment of the funds temporary school fund 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 79-1036; 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 temporary 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. 31. The permanent school fund is the fund described in Article VII, sections 7 and 8, of the Constitution of Nebraska, the principal of which shall be held and invested in perpetuity by the state in trust for the support of its common schools. The annual interest and other income, but not the principal, is subject to use for the support and maintenance of the common schools in each public school district of the state as the Legislature provides in accordance with Article VII, section 9, of the Constitution of Nebraska.

Sec. 32. The temporary school fund is the holding fund to which the interest, dividends, and any other income from the permanent school fund, the net income from the school lands, and the money from all other sources required or provided by law are credited as described in Article VII, section 9, of the Constitution of Nebraska. The entire balance of the temporary school fund, including all interest and any other income therefrom, shall be exclusively used for the support and maintenance of the common schools in each public school district in the state as the Legislature provides, in accordance with Article VII, section 9, of the Constitution of Nebraska, and shall be distributed to each public school district annually.

Sec. 33. School lands are those lands owned or acquired by the state in trust for the support of its common schools as such lands are described in Article VII, section 6, of the Constitution of Nebraska.

Sec. 34. Section 79-1099, Reissue Revised Statutes of Nebraska, is amended to read:

79-1099. In all Class I school districts, the proposition described in section 79-1098 shall be submitted at any annual or special meeting of the electors legal voters of the school district. In all other districts the manner of submission shall be governed in substance by section 23-126.

Sec. 35. Section 79-10,101, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,101. The sum levied and collected under section 79-10,100 shall (1) constitute a special fund for the purposes for which the same it was voted, (2) not be used for any other purpose unless otherwise authorized by a fifty-five percent majority vote of the legal voters of the school district cast at the election under sections 79-1098 and 79-1099, (3) be paid over to the county treasurer of the county in which the administrative office of such school district is located, (4) be kept by the county treasurer and treasurer of the school district separate and apart from other district funds, and (5) be subject to withdrawal as provided in section 79-587. Any portion of such sum so levied and collected, the expenditure of which 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 in which as the Board of Educational Lands and Funds state investment officer may invest the permanent school funds of the State of Nebraska during the accumulation of such sinking fund.

Sec. 36. Section 79-10,103, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,103. (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 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 legal voters in that school district seeking to acquire the property.

(2) The election provisions of this section 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. 37. Section 79-10,105, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,105. The 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 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~~ legal voters pursuant to Chapter 10, article 7. This section does not prevent the 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~~ legal voters for the purpose of lowering finance costs regardless of whether such agreement was entered into prior to July 9, 1988.

Sec. 38. Section 79-10,111, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,111. The ~~qualified~~ legal voters in a Class I or II school district, when lawfully assembled, 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 designation of a site for a schoolhouse by a similar vote at any annual or special meeting. In any school district 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 five through twenty years of age and having a school board of six ~~trustees~~ members, the schoolhouse site in the district may be changed ~~and or~~ the purchasing of a new site ~~directed~~, either may be directed, 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. 39. Section 79-10,112, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,112. When no site can be established as provided in section 79-10,111, the county superintendent of the county in which the school 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 legal voters of the district.

Sec. 40. Section 79-10,113, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,113. The qualified legal 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 it is no longer needed for the use of the district. When real estate is sold, the district may convey ~~the same it~~

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. 41. Section 79-10,117, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,117. The qualified legal voters of any Class III or VI school district have the power, at an election or at any annual or special meeting, to (1) 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) determine the amount necessary to be expended for such purposes the succeeding year, and (3) vote on a tax on the property of the district for the payment of the amount.

Sec. 42. Section 79-10,118, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,118. 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 legal voters 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 legal voters voting at any such election vote in favor 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 with the election result and collected as other taxes.

Sec. 43. Section 79-10,121, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,121. Qualified Legal 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 amount.

Sec. 44. Section 79-10,122, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,122. 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 legal voters 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 79-1098 as to maximum amount and term. If fifty-five percent of the qualified electors legal voters 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 enter the proceedings upon the record of the county board and shall make an order that the levy be made and collected as other taxes.

Sec. 45. Section 79-10,125, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,125. If fifty-five percent of the qualified electors legal voters voting on the proposition under section 79-10,122 vote in favor of the proposition, the school board may at once proceed to carry out the purpose of 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. 46. Section 79-1207, Reissue Revised Statutes of Nebraska, is amended to read:

79-1207. 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 legal voters of such educational service unit or school district and certified by the county clerk or election commissioner.

Sec. 47. Section 79-1217, Reissue Revised Statutes of Nebraska, is amended to read:

79-1217. (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 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 legal voters of any such joint school district shall be eligible to hold office as the county representative of the county in which the greater number of school-age children reside. Any qualified elector legal voter of any joint school district shall be eligible to hold office as the at-large representative if such elector legal voter resides within the geographical boundary of the school district comprising the educational service unit.

(5) Any Class I district which is part of a Class VI district shall be considered a part of the educational service unit of which the Class VI district is a member. If the Class VI district has removed itself from an educational service unit in accordance with section 79-1205, each Class I district which is part of such Class VI district may continue its existing membership in an educational service unit or may change its status relative to membership in an educational service unit in accordance with section 79-1209. The patrons of a Class I district maintaining membership in an educational service unit pursuant to this subsection shall have the same rights and privileges as other patrons of the educational service unit, and the taxable valuation of the taxable property within the geographic boundaries of such Class I district shall be subject to the educational service unit's tax levy established pursuant to section 79-1225.

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

Sec. 48. Section 79-1405, Reissue Revised Statutes of Nebraska, is amended to read:

79-1405. The board of education school board 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 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 legal 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 79-405) enter into a federation of school districts with (corporate names of the school districts as described in section 79-405)?

.... For

.... Against

Sec. 49. Section 79-1406, Reissue Revised Statutes of Nebraska, is amended to read:

79-1406. 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~~ school board of the parent district and it shall not be necessary that the proposition be submitted to the legal voters.

Sec. 50. The Revisor of Statutes shall assign sections 31, 32, and 33 of this act within Chapter 79, article 10.

Sec. 51. Original sections 53-138.01, 66-528 to 66-530, 79-101, 79-102, 79-104, 79-406, 79-407, 79-411, 79-420, 79-423, 79-447, 79-451, 79-472, 79-473, 79-4,106, 79-510, 79-519, 79-540, 79-543, 79-548, 79-549, 79-565, 79-569, 79-574, 79-576, 79-594, 79-1029, 79-1035, 79-1099, 79-10,101, 79-10,103, 79-10,105, 79-10,111 to 79-10,113, 79-10,117, 79-10,118, 79-10,121, 79-10,122, 79-10,125, 79-1207, 79-1217, 79-1405, and 79-1406, Reissue Revised Statutes of Nebraska, are repealed.