

LEGISLATIVE BILL 347

Approved by the Governor March 10, 1997

Introduced by Bohlke, 33; McKenzie, 34

AN ACT relating to schools; to amend sections 79-203, 79-233, 79-245, 79-301, 79-411, 79-424, 79-431, 79-440, 79-462, 79-463, 79-479, 79-482, 79-526, 79-540, 79-581, 79-705, 79-743, 79-744, 79-748, 79-756, 79-802, 79-814, 79-850, 79-902, 79-962, 79-978, 79-1003, 79-1015, 79-1018, 79-1032, 79-1105 to 79-1107, 79-1140, 79-1181, 79-1182, 79-1198, 79-11,100, 79-11,102, 79-11,103, 79-11,106, 79-11,109, 79-11,114, 79-11,115, 79-1217, 79-1222, 79-1301, 79-1313, 79-1314 to 79-1316, 79-1322, 79-1323, and 79-1325, Reissue Revised Statutes of Nebraska, and section 9-812, Revised Statutes Supplement, 1996; to change and eliminate provisions relating to schools, education, penalties, and school districts; to harmonize provisions; to provide a duty for the Revisor of Statutes; to eliminate the Children with Disabilities and Family Service System Act, the Nebraska Student Exchange Act, the Nebraska Schools Accountability Commission, the School Restructuring Commission, and provisions relating to the federal Educational Finance Act of 1949; to repeal the original sections; and to outright repeal sections 79-224 to 79-231, 79-247, 79-2,108 to 79-2,113, 79-428 to 79-430, 79-456, 79-457, 79-459, 79-529, 79-538, 79-710, 79-711, 79-749, 79-751 to 79-755, 79-823, 79-879, 79-1054 to 79-1061, 79-1109, 79-1189 to 79-1195, 79-1197, 79-1205, and 79-1401 to 79-1416, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 9-812, Revised Statutes Supplement, 1996, 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. At least twenty-five percent of the dollar amount of the lottery tickets which have been sold on an annualized basis shall be transferred from the State Lottery Operation Trust Fund 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 79-1233 and 79-1310, 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 79-1106 to 79-1109 79-1108.

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. 2. The second Saturday in May is designated and shall be known as Fire Recognition Day, and exercises appropriate for the subject and day may be exercised by any fire department.

Sec. 3. Section 79-203, Reissue Revised Statutes of Nebraska, is amended to read:

79-203. In case 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 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, the person having legal or actual charge of such child may apply to the superintendent of the school district in which the child resides or a person designated in writing by the superintendent or to the county superintendent of schools of the county in which the child resides. ~~The and the county superintendent or designee may, in his or her discretion, issue a permit allowing such child to be employed.~~

Sec. 4. Section 79-233, Reissue Revised Statutes of Nebraska, is amended to read:

79-233. For purposes of sections 79-232 to 79-247 ~~79-246~~:

(1) Enrollment option program means the program established in section 79-234;

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

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

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

(5) Siblings 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. 5. Section 79-245, Reissue Revised Statutes of Nebraska, is amended to read:

79-245. ~~(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) (1) 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) (2) the option school district shall include the funds received pursuant to this section in the calculation of other actual receipts as required by section 79-1018.

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

79-301. (1) The State Department of Education provided for in Article VII, section 2, of the Constitution of 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) (3) 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. 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. 7. Section 79-411, Reissue Revised Statutes of Nebraska, is amended to read:

79-411. 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 a 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. 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 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. 8. Section 79-424, Reissue Revised Statutes of Nebraska, is amended to read:

79-424. 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, come within the provisions of section 79-431 may file a petition for affiliation pursuant to section 79-413, 79-415, or 79-416 or a plan for affiliation pursuant to section 79-440 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 the Reorganization of School Districts Act and sections 79-413 to 79-419.

Sec. 9. Section 79-431, Reissue Revised Statutes of Nebraska, is amended to read:

79-431. (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 79-470, 79-498, or 79-598 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 79-428 to 79-430 and shall be dissolved and attached to an existing Class II, III, IV, or V district by the county superintendent of schools under section 79-498. 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 79-402 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 79-472 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.

Sec. 10. Section 79-440, Reissue Revised Statutes of Nebraska, is amended to read:

79-440. (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 79-443 and other facts considered pertinent by the county committee for the information of the public as to the reasons for and benefits 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. 11. Section 79-462, Reissue Revised Statutes of Nebraska, is amended to read:

79-462. (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 petitioned 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 the county superintendent determines after notice and hearing as provided in section 79-456 this section 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. 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. The county superintendent shall give notice of the filing of the petition and of the date, time, and place of hearing on the petition at least ten days prior to the date of the hearing by one publication in a legal newspaper of general circulation in each district affected and by posting a notice on the outer door of the schoolhouse in each district affected. The notice shall describe the territory to be transferred. If after the hearing on the petition the county superintendent determines that the requirements of this subsection have been complied with, he or she shall change the boundaries of the district to set off the land described in the petition and attach it to an adjoining district pursuant to the petition.

(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 if the petition is filed on or before February 15 of the year in which the transfer is approved, the transfer shall be effective on June 1 of the year in which the transfer is approved. If the τ except that when a petition is filed after February 15 the transfer shall not be effective until June 1 of the following year.

(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 under this section 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. 12. Section 79-463, Reissue Revised Statutes of Nebraska, is amended to read:

79-463. (1) When ~~(+)~~ (a)(i) 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 ~~(b)~~ (ii) 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 ~~(+)~~ (b) 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 the commissioner, the county superintendent of schools of the county 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 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 shall also be posted in three public places, one of which places shall be upon the outer door of the schoolhouse, if there is one, in each district affected, at least ten days prior to the hearing. At the hearing, the board 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.

(2) If such territory is transferred, the county superintendent shall notify the county clerk of the transfer. The county clerk shall, within fifteen days after receipt of the notice of transfer unless it is recalled at the request of the parent or guardian of such children 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, 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.

(3) When the transfer of children 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 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. The county clerk of the county in which the applicant resides shall, under the authority of the county board of the county, levy an amount equal to and not exceeding the rate of school taxes being voted in the district to which the transfer is made upon all taxable real and personal property belonging to such applicant situated on lands thus transferred. Such levy shall be made within fifteen days after receipt of the certificate of transfer unless in the meantime the certificate is recalled at the request of the parent or guardian of such children. 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. Taxes on the territory so attached shall be levied and collected in the manner provided by sections 79-224 to 79-227, covering transfer of pupils for school purposes from a school district located in one county to a school district located in another county.

Sec. 13. Section 79-479, Reissue Revised Statutes of Nebraska, is amended to read:

79-479. (1)(a) 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 79-226 to 79-228, 79-402 to 79-404, 79-406, 79-412 to 79-421, 79-428, 79-430, 79-431, 79-452 to 79-457, 79-459, 79-455, 79-460 to 79-468, 79-470, 79-472, 79-478, 79-480, 79-495, 79-498, and 79-598 but excluding the method provided by sections 79-407, 79-473 to 79-475, and 79-549, 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 county superintendent or county superintendents shall not issue an order changing boundaries relating to

affiliation of school districts if twenty percent or more of any tract of land under common ownership which is proposing to affiliate is not contiguous to the high school district with which affiliation is proposed unless (i) one or more resident students of the tract of land under common ownership has attended the high school program of the high school district within the immediately preceding ten-year period or (ii) approval of the petition or plan would allow siblings of such resident students to attend the same school as the resident students attended.

(b) The order issued by the county superintendent or county superintendents 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 79-524 and 79-578, 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 79-1023 to 79-1030, 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. 14. Section 79-482, Reissue Revised Statutes of Nebraska, is amended to read:

79-482. The notice specified in section 79-481 shall also be given in the same manner as provided by section 79-456 ~~79-462~~ for transferring land from one district to another.

Sec. 15. Section 79-526, Reissue Revised Statutes of Nebraska, is amended to read:

79-526. The school board or board of education 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 otherwise provided, 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 board shall establish with the consent and advice of the State Department of Education. ~~In Class I and Class II school districts, the board shall classify the pupils according to a course of study provided by the department.~~ The board shall make provision for pupils that may enter at any time during the school year. ~~The board shall cause to be kept, in a book provided for such purpose, a record have a record kept of~~ the advancement of all pupils in each branch of study. The board shall make rules and regulations as it deems necessary for the government and health of the pupils and devise any means as may seem best to secure the regular attendance and progress of children at school.

Sec. 16. Section 79-540, Reissue Revised Statutes of Nebraska, is amended to read:

79-540. If any person offering to vote at any Class I ~~79-540~~ ~~IV, or VI or II~~ school district meeting ~~or election~~ is challenged as unqualified by any registered voter in 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 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 to it shall be permitted to vote on all questions proposed at such meeting, or election.

Sec. 17. Section 79-581, Reissue Revised Statutes of Nebraska, is amended to read:

79-581. The secretary of any school board or board of education of a Class I, II, III or VI or III school district failing or neglecting to comply with the provisions of section 79-580 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. 18. Section 79-705, Reissue Revised Statutes of Nebraska, is amended to read:

79-705. 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. 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 shall be known as Fire Recognition Day, and exercises appropriate for the subject and day may be exercised by any fire department.

Sec. 19. Section 79-743, Reissue Revised Statutes of Nebraska, is amended to read:

79-743. (1) Any board in control of any public school, college, or university school board or board of education 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. 20. Section 79-744, Reissue Revised Statutes of Nebraska, is amended to read:

79-744. The State Board of Vocational Education shall (1) cooperate with the boards authorized by sections 79-738 to 79-744 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 79-738 to 79-744 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 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 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 79-738 to 79-744 if such programs are inconsistent with sections 85-917 to 85-966 and 85-1511.

Sec. 21. Section 79-748, Reissue Revised Statutes of Nebraska, is amended to read:

79-748. (1) The Legislature 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; and

(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. 7

(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. 22. Section 79-756, Reissue Revised Statutes of Nebraska, is amended to read:

79-756. The Nebraska Schools Accountability Commission Cash Fund is created ~~eliminated~~. Any money remaining in the fund on the effective date of this act shall be transferred to the General Fund on such date. Any funds appropriated by the Legislature to carry out sections 79-751 to 79-755 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.

Sec. 23. Section 79-802, Reissue Revised Statutes of Nebraska, is amended to read:

79-802. (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, 7 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. 24. Section 79-814, Reissue Revised Statutes of Nebraska, is amended to read:

79-814. The board may limit the use of any certificate or permit issued under sections 79-806 to 79-816 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. 25. Section 79-850, Reissue Revised Statutes of Nebraska, is amended to read:

79-850. For purposes of sections 79-850 to 79-852, unless the context otherwise requires, reorganized school district 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 the Reorganization of School Districts Act, section 79-407, 79-413, 79-456, 79-463, or 79-473, or sections 79-415 to 79-417 or 79-452 to 79-455; 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 79-413, 79-450, or 79-455, necessary to effect the changes in boundaries as set forth in the petition or plan.

Sec. 26. Section 79-902, Reissue Revised Statutes of Nebraska, is amended to read:

79-902. For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions 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 means any person in receipt of a school retirement allowance or other benefit provided by the act;

(3) Member means any person who has an account in the School Retirement Fund;

(4) County school official 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 means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06, and all service rendered while a contributing member of the retirement system. Creditable service 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 does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, nor service years for which member contributions are withdrawn and not repaid;

(6) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(7) Employer 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 means any year beginning July 1 and ending June 30 next following;

(9) Regular interest means interest at such a rate as determined by the retirement board in conformity with actual and expected earnings on its investments;

(10) Junior school employee 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 means a senior school employee who was employed within the State of Nebraska on September 1, 1945;

(12) School employee 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 section, contributing member 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) (12) Prior service means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;

(14) (13) Public school means any and all schools offering instruction in elementary or high school grades, as defined in section 79-101, which schools are supported by public funds and are 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 79-978 to 79-9,116, any educational service unit, and any other educational institution wholly supported by public funds, except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

(15) (14) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(16) (15) Retirement board or board means the Public Employees Retirement Board;

(17) (16) Retirement system means the School Retirement System of the State of Nebraska;

(18) (17) Required deposit means the deduction from a member's compensation as provided for in section 79-958 which shall be deposited in the School Retirement Fund;

(19) (18) School year means one fiscal year which includes 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) (19) Senior school employee means a school employee who has arrived at his or her twenty-first birthday anniversary on August 15 preceding;

(21) (20) Service means service as a school employee;

(22) (21) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-937. 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) (22) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(24) (23) State deposit means the deposit by the state in the retirement system on behalf of any member;

(25) (24) State school official 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) (25) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(27) (26) Emeritus member 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 79-916, (b) who has thereafter been reemployed in any capacity by a public school in Nebraska as defined in subdivision (14) (13) of this section, including schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors, 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) (27) Primary carrier means the life insurance companies and trust companies designated as the underwriter or trustee of the retirement system;

(29) (28) Actuarial equivalent 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 except when a lump-sum settlement is made to an estate. If the lump-sum settlement is made to an estate, the interest rate will be determined by the Moody's Triple A Bond Index as of the prior June 30, rounded to the next lower quarter percent;

{30} (29) Retirement date means the first day of the month following the date upon which a member's request for retirement is received on a retirement application 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} (30) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has ceased employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

{32} (31) Retirement application means the form approved by the retirement system for acceptance of a member's request for either regular or disability retirement;

{33} (32) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the School Employees Retirement Act. Such credit shall not be included as years of creditable service in the benefit calculation;

{34} (33) Final average compensation means (a) for full-time employees, the member's total compensation subject to required deposits for the three fiscal years in which such compensation was the highest divided by thirty-six; and (b) for part-time employees, the member's total adjusted compensation subject to required deposits for the three fiscal years in which such adjusted compensation was the highest divided 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 the total number of months of his or her creditable 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.

Payments under the Retirement Incentive Plan pursuant to section 79-855 and Staff Development Assistance pursuant to section 79-856 shall not be included in the determination of final average compensation;

{35} (34) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

{36} (35) Current benefit means the initial benefit increased by all adjustments made pursuant to section 79-947.02;

{37} (36) Initial benefit means the retirement benefit calculated at the time of retirement;

{38} (37) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

{39} (38)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) 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.

Sec. 27. Section 79-962, Reissue Revised Statutes of Nebraska, is amended to read:

79-962. Every contract of employment with a school employee shall specify that it is subject to the provisions of the ~~state retirement law~~ School Employees Retirement Act.

Sec. 28. Section 79-978, Reissue Revised Statutes of Nebraska, is amended to read:

79-978. For purposes of sections 79-978 to 79-9,116, unless the context otherwise requires:

(1) Retirement system or system means the School Employees Retirement System of (corporate name of the school district as described in section 79-405) as provided for by sections 79-978 to 79-9,116;

(2) Board means the board of education of the school district;

(3) Trustee means a trustee provided for in section 79-980;

(4) Employee 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 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 means any member receiving an allowance;

(7) Beneficiary means any person entitled to receive or receiving a benefit by reason of the death of a member;

(8) Membership service 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 means service rendered prior to September 1, 1951, for which credit is allowed under section 79-999, service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is allowed under sections 79-990, 79-991, 79-994, 79-995, and 79-997;

(10) Creditable service means the sum of the membership service and the prior service;

(11) Compensation 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 means service in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or any auxiliary thereof;

(13) Accumulated contributions means the sum of amounts contributed by a member of the system together with regular interest credited thereon;

(14) Regular interest 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 means the date of retirement of a member for service or disability as fixed by the board;

(16) Normal retirement date means the end of the month during which the member attains age sixty-five;

(17) Early retirement date 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 means the total annual retirement benefit payable to a member for service or disability;

(19) Annuity means annual payments, for both prior service and membership service, for life as provided in sections 79-978 to 79-9,116;

(20) Actuarial tables 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 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 means complete severance of employment of a member as an employee of the school district by resignation, discharge, or dismissal;~~

~~(23)~~ Fiscal year means the period beginning September 1 in any year and ending on August 31 of the next succeeding year;

~~(24)~~ (23) Primary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of a member; and

~~(25)~~ (24) Secondary beneficiary 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. 29. Section 79-1003, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Adjusted general fund operating expenditures means general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the transportation allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each district in the state adjusted pursuant to the adjustment factors described in section 79-1016. For the calculation of state aid to be paid in school years 1994-95 and 1995-96, adjusted valuation 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 calculation of state aid to be paid in school year 1996-97 and each school year thereafter, adjusted valuation means the adjusted valuation for the property tax year ending during the school year immediately preceding 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 79-1015, adjusted valuation 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;

(3) Allocated income tax funds means the amount of assistance paid to a district pursuant to section 79-1004 or 79-1005;

(4) Average daily membership 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, includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(5) Average daily membership tiers means groupings of districts by the number of students comprising a district's average daily membership in a specified grade range;

(6) Base fiscal year means the first fiscal year in which all data sources reflect the reorganized district as a single district for the calculation of state aid;

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

(8) Categorical federal funds 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;

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

- (10) Current school year means the current school fiscal year;
- (11) Department means the State Department of Education;
- (12) District means any Class I, II, III, IV, V, or VI school district, and, for purposes of sections 79-1001 to 79-1022, the nonresident high school tuition fund of each county;
- (13) Ensuing school year means the school year following the current school year;
- (14) Equalization aid means the amount of assistance paid to a district pursuant to sections 79-1008 to 79-1022;
- (15) Fall membership means the total membership in kindergarten through grade twelve as reported on the fall school district membership report pursuant to section 79-528;
- (16) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;
- (17) Formula students means (a) for state aid certified pursuant to section 79-1022, the sum of fall membership from the school year immediately preceding the school year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the most recently available complete data year and the two school years prior to the most recently available complete data year, and tuitioned students from the school year immediately preceding the school year in which the aid is to be paid and (b) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership and tuitioned students from the school year immediately preceding the school year in which the aid was paid;
- (18) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;
- (19) General fund budget of expenditures 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 79-1023, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district subject to the approval of the department;
- (20) General fund expenditures means all expenditures from the general fund;
- (21) General fund operating expenditures 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;
- (22) Income tax liability 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;
- (23) Income tax receipts means the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;
- (24) Most recently available complete data year 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;
- (25) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;
- (26) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;
- (27) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;
- (28) State aid means the amount of assistance paid to a district pursuant to sections 79-1004, 79-1005, and 79-1007 to 79-1022;
- (29) State board means the State Board of Education;
- (30) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;
- (31) Transportation allowance means the lesser of: (a) The general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 79-611, in the most recently available complete data year, but not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures; or (b) the number of miles traveled in the most recently available complete data year by vehicles owned, leased, or contracted by the district for the purpose of regular route transportation

multiplied by four hundred percent of the mileage rate established by the Department of Administrative Services pursuant to section 81-1176 as of January 1 of the most recently available complete data year added in lieu of transportation expenditures pursuant to section 79-611, from the same data year. For school fiscal year 1996-97, the determination of the transportation allowance shall be based on the best available information previously collected by the State Department of Education and shall not include in lieu of transportation expenditures under section 79-611; and

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

Sec. 30. Section 79-1015, Reissue Revised Statutes of Nebraska, is amended to read:

79-1015. (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 79-1018. The local effort rate for Class I districts, and 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 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. 31. Section 79-1018, Reissue Revised Statutes of Nebraska, is amended to read:

79-1018. District formula resources 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 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 79-47102 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) (4) Transportation receipts;

(6) (5) Interest on investments;

(7) (6) Other miscellaneous local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;

(8) (7) Special education receipts;

(9) (8) Receipts from the state for wards of the court and wards of the state;

(10) (9) All receipts from the temporary school fund;

(11) (10) Receipts from the Insurance Tax Fund, except that for the calculation of state aid to be paid in school year 1996-97 and each school year thereafter, other actual receipts do not include Insurance Tax Fund receipts;

(12) (11) Pro rata motor vehicle license fee receipts;

(13) (12) 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;

(14) (13) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;

(15) (14) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;

(16) (15) All other noncategorical federal receipts;

(17) (16) All receipts pursuant to the enrollment option program under sections 79-232 to 79-247 79-246; and

(18) (17) 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. 32. Section 79-1032, Reissue Revised Statutes of Nebraska, is amended to read:

79-1032. The School Finance Review Committee is created. The 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 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 sections 79-232 to 79-247 79-246.

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. 33. Section 79-1105, Reissue Revised Statutes of Nebraska, is

amended to read:

79-1105. The State Department of Education has authority to employ a full-time special consultant trained and experienced in the field of special education for gifted children learners with high ability. 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 learners with high ability and shall monitor the implementation of sections 79-1106 to 79-1108. For purposes of this section, gifted children 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- learner with high ability has the definition found in section 79-1107.

Sec. 34. Section 79-1106, Reissue Revised Statutes of Nebraska, is amended to read:

79-1106. The purpose of sections 79-1106 to 79-1109 79-1108 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. 35. Section 79-1107, Reissue Revised Statutes of Nebraska, is amended to read:

79-1107. For purposes of sections 79-1106 to 79-1109 79-1108:

(1) Approved programs or services means programs or services that serve the educational needs of learners with high ability developed and approved under section 79-1108;

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

(3) Learner with high ability 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. 36. Section 79-1140, Reissue Revised Statutes of Nebraska, is amended to read:

79-1140. Except as provided in sections 79-232 to 79-247 79-246 and 79-1141, 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 Health and Human Services, and any other servicing agency whose programs are approved by the State Department of Education.

Sec. 37. Section 79-1181, Reissue Revised Statutes of Nebraska, is amended to read:

79-1181. (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 79-1187 or in the alternative make recommendations for a funding system which will accomplish the goals stated by the Legislature in the findings contained in 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 children with disabilities and the impacts of those programs in the education and

posteducation performance of such 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 79-1187 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 79-1187 and subsection (1) of this section, and recommendations for accountability measures for special education programs.

Sec. 38. Section 79-1182, Reissue Revised Statutes of Nebraska, is amended to read:

79-1182. 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. 39. Section 79-1198, Reissue Revised Statutes of Nebraska, is amended to read:

79-1198. The State Department of Education shall have general control of all educational programs for acoustically handicapped persons deaf and hard of hearing persons as defined and identified in the Special Education Act 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. 40. Section 79-11,100, Reissue Revised Statutes of Nebraska, is amended to read:

79-11,100. All the residents of this state who are (1) acoustically handicapped deaf or hard of hearing 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 79-1141.

Sec. 41. Section 79-11,102, Reissue Revised Statutes of Nebraska, is amended to read:

79-11,102. 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. 42. Section 79-11,103, Reissue Revised Statutes of Nebraska, is amended to read:

79-11,103. 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;~~ the pupil shall be supplied by the superintendent of the school shall supply the pupil 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 is a minor, and against the pupil if he or she has no parent or guardian 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 appears that the parent or guardian of the pupil is unable to pay the account and that such pupil is a pauper, the account shall be paid from the county general fund.

Sec. 43. Section 79-11,106, Reissue Revised Statutes of Nebraska, is amended to read:

79-11,106. The State Department of Education shall coordinate the curriculum and method of service delivery of the education program for ~~acoustically~~ handicapped deaf and hard of hearing children with the program offered by the Nebraska School for the Deaf.

Sec. 44. Section 79-11,109, Reissue Revised Statutes of Nebraska, is amended to read:

79-11,109. The State Department of Education shall have oversight and general control of all programs of education and welfare for visually handicapped persons as defined and identified pursuant to the Special Education Act 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. 45. Section 79-11,114, Reissue Revised Statutes of Nebraska, is amended to read:

79-11,114. 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. 46. Section 79-11,115, Reissue Revised Statutes of Nebraska, is amended to read:

79-11,115. 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 shall supply the pupil 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 appears that the parent or guardian of the pupil is unable to pay the account and that such pupil is a pauper, the account shall be paid from the county general fund.

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 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 79-1205, 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 the educational service unit of which the school district is considered to be a part.

Sec. 48. Section 79-1222, Reissue Revised Statutes of Nebraska, is amended to read:

79-1222. When requested in writing by local school boards or boards of education, or school boards, the board of each educational service unit may, at its discretion and within the limitations imposed by sections 79-1224 and 79-1225, (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 79-1205 the Educational Service Units 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, 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. 49. Section 79-1301, Reissue Revised Statutes of Nebraska, is amended to read:

79-1301. 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) 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) through (4) of this section.

Sec. 50. Section 79-1313, Reissue Revised Statutes of Nebraska, is amended to read:

79-1313. 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, or by other telecommunications technology distribution systems,~~ and (3) ~~establishing over a period of time and operating a statewide educational and public radio network and service and television networks and services.~~ 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 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. 51. Section 79-1314, Reissue Revised Statutes of Nebraska, is amended to read:

79-1314. For purposes of the Nebraska Educational Telecommunications Act, unless the context otherwise requires:

(1) Telecommunications includes statewide standard public television, ~~statewide closed-circuit educational television, and statewide radio satellite transmission, whether formal or informal,~~

~~(2) Formal telecommunications means programs offered through a telecommunications system by which credits toward an educational degree, certificate, or diploma may be earned; and~~

~~(3) and public radio transmissions and other telecommunications technology distribution systems; and~~

(2) Instructional technology telecommunications 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. 52. Section 79-1315, Reissue Revised Statutes of Nebraska, is amended to read:

79-1315. (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.

If the Commissioner of Education is unable to attend a commission meeting, the deputy commissioner of education or his or her designee is authorized to act on his or her behalf, and 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. 53. Section 79-1316, Reissue Revised Statutes of Nebraska, is amended to read:

79-1316. The powers and duties of the Nebraska Educational Telecommunications Commission are:

(1) To promote and sponsor a noncommercial educational telecommunications television 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 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 radio and television broadcast, by closed circuits, or by radio satellite transmission or by other telecommunications technology broadcast systems 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 in support of radio, television, and other telecommunications technology services 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 visually impaired, other print-handicapped persons, and the deaf and hard of hearing 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) (9) To arrange for the operation of a statewide educational telecommunications network networks, as directed by the Nebraska Educational Telecommunications Commission, consistent with the provisions of the federal Communications Act of 1934, as amended, and applicable rules, and regulations, and with policies of the Federal Communications Commission, and in cooperation with the State Board of Education insofar as elementary and secondary education programs are concerned, consistent with policies of the State Board of Education and in cooperation with the Coordinating Commission for Postsecondary Education insofar as postsecondary education programs are concerned;

(11) (10) After taking into consideration the needs of the entire

state, to establish and maintain general policies relating to the nature and character of educational telecommunications broadcasts or transmissions;

(12) (11) 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) (12) 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) (13) To arrange for and provide standard radio and television broadcast, closed-circuit, and radio satellite transmission and other telecommunications technology transmissions of 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) (14) To coordinate the activities of all with Nebraska agencies, that deal with telecommunications activities and are 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) (15) To adopt bylaws for the conduct of its affairs;

(17) (16) To make certain that the facilities are not used for any purpose which is contrary to the United States Constitution or the Constitution of Nebraska or for broadcasting propaganda or attempting to influence legislation;

(18) (17) 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) (18) 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. 54. Section 79-1322, Reissue Revised Statutes of Nebraska, is amended to read:

79-1322. The Subject to the approval of the Legislature and, if the Legislature is not in session, the Executive Board of the Legislative Council, 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 transmitter buildings and tower sites with access roads;
- (2) For guy anchors for towers; and
- (3) For transmission and reception facilities of telecommunications technology distribution systems. 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. 55. Section 79-1323, Reissue Revised Statutes of Nebraska, is amended to read:

79-1323. 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 telecommunications 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 telecommunications and to perform the assigned functions in an efficient manner. Funds may be used to contract with the Nebraska Educational Telecommunications Commission and other 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. 56. Section 79-1325, Reissue Revised Statutes of Nebraska, is amended to read:

79-1325. The duties and responsibilities of the director of instructional telecommunications 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 by which all Nebraska schools would have access to a minimum of two instructional telecommunications services: One through open circuit broadcast, such as the via a Nebraska educational telecommunications television network, and each cable system which provides another through other telecommunications techniques which provide 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. 57. The Revisor of Statutes shall assign section 2 of this act within Chapter 35.

Sec. 58. Original sections 79-203, 79-233, 79-245, 79-301, 79-411, 79-424, 79-431, 79-440, 79-462, 79-463, 79-479, 79-482, 79-526, 79-540, 79-581, 79-705, 79-743, 79-744, 79-748, 79-756, 79-802, 79-814, 79-850, 79-902, 79-962, 79-978, 79-1003, 79-1015, 79-1018, 79-1032, 79-1105 to 79-1107, 79-1140, 79-1181, 79-1182, 79-1198, 79-11,100, 79-11,102, 79-11,103, 79-11,106, 79-11,109, 79-11,114, 79-11,115, 79-1217, 79-1222, 79-1301, 79-1313, 79-1314 to 79-1316, 79-1322, 79-1323, and 79-1325, Reissue Revised Statutes of Nebraska, and section 9-812, Revised Statutes Supplement, 1996, are repealed.

Sec. 59. The following sections are outright repealed: Sections 79-224 to 79-231, 79-247, 79-2,108 to 79-2,113, 79-428 to 79-430, 79-456, 79-457, 79-459, 79-529, 79-538, 79-710, 79-711, 79-749, 79-751 to 79-755, 79-823, 79-879, 79-1054 to 79-1061, 79-1109, 79-1189 to 79-1195, 79-1197, 79-1205, and 79-1401 to 79-1416, Reissue Revised Statutes of Nebraska.