

LEGISLATIVE BILL 813

Approved by the Governor May 12, 1999

Introduced by Bohlke, 33

AN ACT relating to schools; to amend sections 43-2505, 48-304, 79-318, 79-492, 79-556, 79-557, 79-558, 79-602, 79-803, 79-1063, 79-1145, 79-1188, 79-1601, and 79-1602, Reissue Revised Statutes of Nebraska, and sections 13-509, 72-801, 79-101, 79-472, 79-479, 79-4,108, 79-528, 79-540, 79-758, 79-1003, 79-1007.02, 79-1009, 79-1016, 79-1022, 79-1024, 79-1026, 79-1027, 79-1027.01, 79-1029, 79-1072.01, 79-1083.02, 79-1083.03, 79-1090, 79-10,110, 79-10,124, 79-1110, 79-1113, 79-1118.01, 79-1128, 79-1135, 79-1138, 79-1140, 79-1142, 79-1144, 79-1148, 79-1155, 79-1156, 79-1157, 79-1167, 79-1185, 79-11,109, 79-11,110, 81-1108.22, and 85-607, Revised Statutes Supplement, 1998; to change and eliminate provisions relating to certification of property valuation, student employment certificates, boundary changes, annual and special meetings, pupil transportation vehicle inspection stickers, quality education incentives eligibility, net option funding, state aid payments, budget restrictions and reductions, temporary mitigation funds, environmental hazard abatement or accessibility barrier elimination levies, Class I district building funds, and election statements filed by certain nonpublic schools as prescribed; to define and redefine terms and eliminate definitions; to provide, change, and eliminate powers and duties of the State Board of Education, the State Department of Education, the Commissioner of Education, unified systems, school boards, and high school districts; to rename the Nebraska School for the Visually Handicapped; to provide for the Nebraska Center for the Education of Children who are Blind or Visually Impaired; to eliminate expired provisions and provisions relating to program expansion, budgets, reimbursement, identification, and placement changes in the Special Education Act and provisions relating to the Nebraska School for the Deaf; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 79-1141, 79-1186, 79-11,112, 79-11,116, 79-11,117, 79-11,118, 79-11,120, and 90-118, Reissue Revised Statutes of Nebraska, and sections 79-1134, 79-1198, 79-11,111, 79-11,113, 79-11,114, 79-11,115, and 79-11,119, Revised Statutes Supplement, 1998; and to declare an emergency.

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

Section 1. Section 13-509, Revised Statutes Supplement, 1998, is amended to read:

13-509. On or before August 20 of each year, the county assessor shall (1) certify to each governing body or board empowered to levy or certify a tax levy the current taxable value of the taxable real and personal property subject to the applicable levy and (2) certify to the State Department of Education the current taxable value of the taxable real and personal property subject to the applicable levy for all school districts. Current taxable value for real property shall mean the value established by the county assessor and equalized by the county board of equalization, the agricultural and horticultural land valuation board, and the Tax Equalization and Review Commission. Current taxable value for tangible personal property other than motor vehicles shall mean the net book value reported by the taxpayer and certified by the county assessor, and current taxable value for motor vehicles shall mean the value certified by the county assessor pursuant to section 77-1514.

Sec. 2. Section 43-2505, Reissue Revised Statutes of Nebraska, is amended to read:

43-2505. For purposes of the Early Intervention Act:

(1) Collaborating agencies means the Department of Health and Human Services and the State Department of Education;

(2) Developmental delay means ~~any of the disabilities described~~ has the definition found in section 79-1118.01;

(3) Early intervention services may include services which:

(a) Are designed to meet the developmental needs of each eligible infant or toddler with disabilities and the needs of the family related to enhancing the development of their infant or toddler;

(b) Are selected in collaboration with the parent or guardian;

(c) Are provided in accordance with an individualized family service plan;

(d) Meet all applicable federal and state standards; and

(e) Are provided, to the maximum extent appropriate, in natural environments including the home and community settings in which infants and toddlers without disabilities participate;

(4) Eligible infant or toddler with disabilities means a child who needs early intervention services and is two years of age or younger, except that toddlers who reach age three during the school year shall remain eligible throughout that school year. The need for early intervention services is established when the infant or toddler experiences developmental delays ~~which means or any of the other~~ disabilities described in the Special Education Act;

(5) Federal early intervention program means the federal early intervention program for infants and toddlers with disabilities, 20 U.S.C. 1471 to 1485;

(6) Individualized family service plan means the process, periodically documented in writing, of determining appropriate early intervention services for an eligible infant or toddler with disabilities and his or her family;

(7) Interagency planning team means an organized group of interdisciplinary, interagency representatives, community leaders, and family members in each local community or region;

(8) Lead agency or agencies means the Department of Health and Human Services and State Department of Education and any other agencies designated by the Governor for general administration, supervision, and monitoring of programs and activities receiving federal funds under the federal early intervention program and state funds appropriated for early intervention services under the Early Intervention Act;

(9) Nebraska Interagency Coordinating Council means the state council the function of which is to advise and assist the collaborating agencies in carrying out the provisions of the act. The members of the council shall be appointed by the Governor and shall include, but not be limited to, representatives of school districts, social services, health and medical services, parents, mental health services, developmental disabilities services, educational service units, Head Start, higher education, physicians, the Legislature, and the collaborating agencies; and

(10) Services coordination means a flexible process of interaction facilitated by a services coordinator to assist the family of an eligible infant or toddler with disabilities within a community to identify and meet their needs pursuant to the ~~Early Intervention Act act~~. Services coordination under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from other sources.

Sec. 3. Section 48-304, Reissue Revised Statutes of Nebraska, is amended to read:

48-304. The person authorized to issue an employment certificate under section 48-303 shall not issue such certificate until he or she has received, examined, approved, and filed the following papers duly executed: (1) The school record of ~~such~~ the child, properly filled out and signed as provided in section 48-306, showing the child has completed the work of the sixth grade of the public schools, or its equivalent, or is regularly attending night school in compliance with section 48-308; and (2) a passport or duly attested transcript of the certificate of birth or baptism, or other religious or official record showing the date and place of birth of such child. A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics, or other officer charged with the duty of recording births, shall be conclusive evidence of the age of such child. The affidavit of the parent, guardian, or custodian of a child shall be required only in case none of ~~the such~~ documents ~~mentioned above~~ can be produced and filed, showing the place and date of birth of such child, which affidavit must be taken before the officer issuing the employment certificate. Such employment certificate shall not be issued until such child has personally appeared before and been examined by the officer issuing the certificate, and until such officer, ~~shall~~, after making such examination, ~~sign and file~~ signs and files in his or her office a statement that the child can read and legibly write simple sentences in the English language and that, in his or her opinion, the child has reached the normal development of a child of ~~its~~ such child's age, and the child is in sound health and is physically able to perform the work which ~~it~~ such child intends to do. In doubtful cases such physical fitness shall be determined by a physician provided by the Department of Labor. In addition to the ~~foregoing~~ requirements of this section, if the child is under fourteen years of age, the employment

certificate shall be issued only for employment in connection with an employment program supervised and sponsored by the school or school district such child attends. ~~7 which program has been approved by the State Department of Education.~~ Whenever the person authorized to issue the employment certificate is in doubt about the age of a child, he or she may require the party or parties making application for the certificate to appear before the judge of the juvenile court or the county judge where the question of the age of the child shall be determined and the judgment of the court shall be final and binding upon the person issuing the certificate. Notice of the hearing before the court shall be given to some one of the persons authorized to demand inspection of employment certificates. Every employment certificate shall be signed in the presence of the officer issuing the ~~same~~ certificate by the child in whose name it is issued.

Sec. 4. Section 72-801, Revised Statutes Supplement, 1998, is amended to read:

72-801. Any public building that is erected or repaired and for which an appropriation is made by the Legislature shall be constructed or repaired in a complete manner within the limits of such appropriation. Except as provided in sections 72-811 to 72-818 and ~~79-11,120~~ 79-11,109, no building shall be changed or diverted from the use or purpose, kind, or class of building from that for which the appropriation was originally made.

Sec. 5. Section 79-101, Revised Statutes Supplement, 1998, is amended to read:

79-101. For purposes of Chapter 79:

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

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

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

(4) Prekindergarten programs means all early childhood programs provided for children who have not reached the age of five by October 15 of the current school year;

(5) Elementary grades means grades kindergarten through eight, inclusive;

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

(7) School year means (a) for elementary grades other than kindergarten, the time equivalent to at least one thousand thirty-two instructional hours and (b) for high school grades, the time equivalent to at least one thousand eighty instructional hours;

(8) Instructional hour means a period of time, at least sixty minutes, which is actually used for the instruction of students;

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

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

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

(12) Teach means and includes, but is not limited to, the following responsibilities: (a) The organization and management of the classroom or the physical area in which the learning experiences of pupils take place; (b) the assessment and diagnosis of the individual educational needs of the pupils; (c) the planning, selecting, organizing, prescribing, and directing of the learning experiences of pupils; (d) the planning of teaching strategies and the selection of available materials and equipment to be used; and (e) the evaluation and reporting of student progress;

(13) Permanent school fund means the fund described in section 79-1035.01;

(14) Temporary school fund means the fund described in section 79-1035.02; and

(15) School lands means the lands described in section 79-1035.03. Educational lands has the same meaning as school lands.

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

Sec. 6. Section 79-318, Reissue Revised Statutes of Nebraska, is

amended to read:

79-318. The State Board of Education shall:

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

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

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

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

(5) Provide, through the commissioner and his or her professional staff, enlightened professional leadership, guidance, and supervision of the state school system, including educational service units. In order that the commissioner and his or her staff may carry out their duties, the board shall, through the commissioner: (a) Provide supervisory and consultation services to the schools of the state; (b) issue materials helpful in the development, maintenance, and improvement of educational facilities and programs; (c) establish rules and regulations which govern standards and procedures for the approval and legal operation of all schools in the state and for the accreditation of all schools requesting state accreditation. All public, private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in this section and section 79-703 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in subsections (2) through ~~(5)~~ (6) of section 79-1601. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through ~~(5)~~ (6) of section 79-1601, not to meet state accreditation or approval requirements shall be as described in such section; (d) institute a statewide system of testing to determine the degree of achievement and accomplishment of all the students within the state's school systems if it determines such testing would be advisable; (e) prescribe a uniform system of records and accounting for keeping adequate educational and financial records, for gathering and reporting necessary educational data, and for evaluating educational progress; (f) cause to be published laws, rules, and regulations governing the schools and the school lands and funds with explanatory notes for the guidance of those charged with the administration of the schools of the state; (g) approve teacher education programs conducted in Nebraska postsecondary educational institutions designed for the purpose of certificating teachers and administrators; (h) approve teacher evaluation policies and procedures developed by school districts and educational service units; and (i) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature;

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

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

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

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

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

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

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

(13) With the advice of the Department of Motor Vehicles, adopt and promulgate rules and regulations containing reasonable standards, not inconsistent with existing statutes, governing: (a) The general design, equipment, color, operation, and maintenance of any vehicle with a manufacturer's rated seating capacity of eleven or more passengers used for the transportation of school children; and (b) the equipment, operation, and maintenance of any vehicle with a capacity of ten or less passengers used for the transportation of school students, when such vehicles are owned, operated, or owned and operated by any school district or privately owned or operated under contract with any school district in this state. Similar rules and regulations shall be adopted and promulgated for operators of such vehicles as provided in section 79-607;

(14) Accept, on behalf of the Nebraska Center for the Education of Children who are Blind or Visually Impaired, formerly the Nebraska School for the Visually Handicapped, on behalf of the Nebraska School for the Deaf, or on behalf of any school for students with mental retardation which is exclusively owned by the State of Nebraska and under the control and supervision of the State Department of Education, devises of real property or donations or bequests of other property, or both, if in its judgment any such devise, donation, or bequest is for the best interest of any such school the center or the students attending such school receiving services from the center, or both, and irrigate or otherwise improve any such real estate when in the board's judgment it would be advisable to do so; and

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

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

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

Sec. 7. Section 79-472, Revised Statutes Supplement, 1998, is amended to read:

79-472. (1)(a) If a Class II school district, by a vote of fifty-five percent of the legal voters voting at ~~an annual or~~ a special meeting, decides to discontinue and close the high school, the school district shall become an affiliated Class I school district on the date designated by such legal voters. Affiliation shall be accomplished pursuant to sections 79-413 to 79-427. At such meeting a decision shall be made as to when the new school board shall be elected and whether the board shall consist of three members or six members. No new Class I school district shall establish a six-member board unless the school district contains a minimum of one hundred fifty children who are five through twenty years of age. The school board of the existing Class II school district shall remain in office until the effective date for the formation of the new Class I school district.

(b) If the new school board is to consist of three members, such members shall be elected at the time of the vote to change from a Class II school district to a Class I school district or at ~~any annual or~~ a special meeting held not less than thirty days prior to the effective date of the change from a Class II school district to a Class I school district. At the ~~annual or~~ special meeting, a treasurer shall be elected for a term of one

year, a secretary for a term of two years, and a president for a term of three years, and their successors shall be elected for terms of three years each. All officers so elected shall hold their offices until successors are elected and qualified. After such change becomes effective, the school district and its officers shall have the powers of and be governed by the provisions of law applicable to Class I school districts.

(c) If the new school board is to consist of six members, such members shall be elected after the vote to change from a Class II school district to a Class I school district. The procedure for electing board members shall be as prescribed in section 32-541 or as prescribed in subsection (3) of section 79-565, except that such election may be held at any annual school meeting or at a special school meeting called for the purpose of electing school district officers.

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

Sec. 8. Section 79-479, Revised Statutes Supplement, 1998, is amended to read:

79-479. (1)(a) Beginning January 1, 1992, any school district boundaries changed by the means provided by Nebraska law, 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. Whenever the order changes the boundaries of a school district due to the transfer of land, the county assessor, the Property Tax Administrator, and the State Department of Education shall be provided with the legal description and a map of the parcel of land which is transferred. 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. 9. Section 79-492, Reissue Revised Statutes of Nebraska, is amended to read:

79-492. When a new Class I ~~or Class II~~ school district is organized and officers are elected at any other time than at the annual meeting, the time intervening between the date of organization and the beginning of the next school year shall constitute the first year in the term of such officers.

Sec. 10. Section 79-4,108, Revised Statutes Supplement, 1998, is amended to read:

79-4,108. (1) Unified system means two or more Class II or III school districts participating in an interlocal agreement under the Interlocal Cooperation Act with approval from the State Committee for the Reorganization of School Districts. The interlocal agreement may include Class I districts if the entire valuation is included in the unified system. The interlocal agreement shall provide for a minimum term of three school years. The agreement shall provide that all property tax and state aid resources shall be shared by the unified system and that a board composed of school board members, with at least one school board member from each district, shall determine the general fund levy, within the limitations placed on school districts and multiple-district school systems pursuant to section 77-3442, to be applied in all participating districts and shall determine the distribution of property tax and state aid resources within the unified system. For purposes of section 77-3442, the multiple-district school system shall include all of the Class I, II, and III districts participating in the unified system and the Class I districts or portions thereof affiliated with any of the participating Class II and III districts. The interlocal agreement shall also provide that certificated staff will be employees of the unified system. For any certificated staff employed by the unified system, tenure and seniority as of the effective date of the interlocal agreement shall be transferred to the unified system and tenure and seniority provisions shall continue in the unified system except as provided in sections 79-850 to 79-858. If a district withdraws from the unified system or if the interlocal agreement expires and is not renewed, certificated staff employed by a participating district immediately prior to the unification shall be reemployed by the original district and tenure and seniority as of the effective date of the withdrawal or expiration shall be transferred to the original district. The certificated staff hired by the unified system but not employed by a participating district immediately prior to the unification shall be subject to the reduction-in-force policy of the unified system. The interlocal agreement shall also require participating districts to pay obligations of the unified system pursuant to sections 79-850 to 79-858 on a pro rata basis based on the adjusted valuations if a district withdraws from the unified system or if the interlocal agreement expires and is not renewed. Additional provisions in the interlocal agreement shall be determined by the participating districts and shall encourage cooperation within the unified system.

(2) Application for unification shall be made to the state committee. The application shall contain a copy of the interlocal agreement signed by the president of each participating school board. The state committee shall approve or disapprove applications for unification within thirty days after receipt of the application. If the interlocal agreement complies with subsection (1) of this section and all school boards of the participating districts have approved the interlocal agreement, the state committee shall approve the application. Unification agreements shall be effective on June 1 following approval from the state committee for status as a unified system or on ~~June 1 of the year specified in the interlocal agreement~~ the date specified in the interlocal agreement, except that the date shall be on or after June 1 and on or before September 1 for a specified year. The board established in the interlocal agreement may begin meeting any time after the application has been approved by the state committee.

(3) Upon granting the application for unification, the State Department of Education shall recognize the unified system as a single Class II or III district for state aid, budgeting, accreditation, enrollment of students, state programs, and reporting. The unified system shall submit a single report document for each of the reports required of school districts pursuant to Chapter 79 and shall submit a single budget document pursuant to the Nebraska Budget Act and sections 13-518 to 13-522. The class of district shall be the same as the majority of participating districts, excluding Class I districts. If there are an equal number of Class II and Class III districts in the unified system, the unified system shall be recognized by the department as a Class III district.

(4) The school districts participating in a unified system shall

retain their separate identities for all purposes except those specified in this section, and participation in a unified system shall not be considered a reorganization.

Sec. 11. Section 79-528, Revised Statutes Supplement, 1998, is amended to read:

79-528. (1) On or before July 20 in all school districts, the secretary of the school board shall deliver to the county superintendent, to be filed in the county superintendent's office, a report under oath showing the number of children from birth through twenty years of age belonging to the school district according to the census taken as provided in sections 79-524 and 79-578. The report shall identify the number of boys and the number of girls in each of the respective age categories. Each Class I school district which is part of a Class VI school district offering instruction (a) in grades kindergarten through six shall report children from birth through eleven years of age and (b) in grades kindergarten through eight shall report children from birth through thirteen years of age. Each Class VI school district offering instruction (i) in grades seven through twelve shall report children who are twelve through twenty years of age and (ii) in grades nine through twelve children who are fourteen through twenty years of age. Each Class I district which has affiliated in whole or in part shall report children from birth through thirteen years of age. Each Class I district which is not in whole or in part a part of a Class VI district and which has not affiliated in whole or in part shall report children from birth through twenty years of age. Each Class II, III, IV, or V district shall report children who are fourteen through twenty years of age residing in Class I districts or portions thereof which have affiliated with such district. The board of any district neglecting to take and report the enumeration shall be liable to the school district for all school money which such district may lose by such neglect.

(2) On or before June 30 in all school districts, the secretary of the school board shall deliver to the county superintendent and file with the Commissioner of Education a report under oath described as an end-of-the-school-year annual statistical summary showing (a) the number of children attending school during the year under five years of age, (b) the length of time the school has been taught during the year by a qualified teacher, (c) the length of time taught by each substitute teacher, and (d) such other information as the Commissioner of Education directs.

(3) On or before October 15 in Class I school districts, the secretary of the school board shall submit to the county superintendent, to be filed in the county superintendent's office, and on or before November 1 in Class II, III, IV, V, and VI school districts, the secretary of the school board shall submit to the county superintendent and to the Commissioner of Education, to be filed in their offices, a report under oath described as the annual financial report showing (a) the amount of money received from all sources during the year and the amount of money expended by the school district during the year, (b) the rate of tax levied for all school purposes, (c) the amount of bonded indebtedness, (d) such other information as shall be necessary to fulfill the requirements of the Tax Equity and Educational Opportunities Support Act and section 79-1114, and (e) such other information as the Commissioner of Education directs.

(4) On or before October 15 of each year, the secretary of each school board shall deliver to the county superintendent and to the State Department of Education the fall school district membership report, which report shall include the number of children from birth through twenty years of age enrolled in the district on the last Friday in September of a given school year. The report shall enumerate (a) students by grade level, (b) school district levies and total assessed valuation for the current fiscal year, ~~and (c) the amount of the levy for special building funds and sinking funds exempted under subdivision (2)(a) of section 77-3442 for projects commenced prior to April 1, 1996, and the duration of the exemptions, and (d) such other information as the Commissioner of Education directs.~~ When any school district fails to submit its fall school district membership report by November 1, the commissioner shall, after notice to the district and an opportunity to be heard, direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the report is received by the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of such report. The county treasurer shall withhold such money.

Sec. 12. Section 79-540, Revised Statutes Supplement, 1998, is amended to read:

79-540. If any person offering to vote at any Class I ~~or~~ ~~II~~ school

district meeting is challenged as unqualified by any legal voter of such school district, the chairperson presiding at such meeting shall explain to the person challenged the qualifications of a legal voter. If such person states that he or she is qualified and the challenge is not withdrawn, the chairperson 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 to it shall be permitted to vote on all questions proposed at such meeting.

Sec. 13. Section 79-556, Reissue Revised Statutes of Nebraska, is amended to read:

79-556. The annual school meeting of each Class I school district shall be held at the schoolhouse, if there is one, or at some other suitable place within the district on or before the second Monday of August of each year. ~~The annual school meeting of each Class II school district shall be held at the schoolhouse on or before the second Monday of August of each year.~~ The officers elected as provided in sections ~~79-406~~, 79-472, and 79-565 shall take possession of the office to which they have been elected at the first meeting of the board following its election, and the school year shall commence with that day.

Sec. 14. Section 79-557, Reissue Revised Statutes of Nebraska, is amended to read:

79-557. Special meetings of Class I ~~and II~~ school districts may be called by the school board by majority vote, or by any one of the members of such board, on the written request of legal voters of the district equal in number to at least ten percent of those voting at the last general election for Governor in the district by giving the notice required in section 79-558. When so requested, the board or the member receiving such request shall call the meeting. In all notices of special meetings, the object of the meeting shall be stated and no business shall be transacted at such meetings except such as is mentioned in the call.

Sec. 15. Section 79-558, Reissue Revised Statutes of Nebraska, is amended to read:

79-558. All notices of annual or special meetings of Class I ~~and II~~ school districts shall state the day, hour, and place of meeting, which place shall be within the district, and shall be given at least five days previous to such meeting by posting ~~up~~ copies of the notice in three public places within the district. No annual meeting shall be deemed illegal for want of such notice. No schoolhouse site shall be changed ~~nor taxes and no taxes shall be~~ voted for building, purchase, or lease of a schoolhouse at any district meeting unless notices have been given of such meeting as provided in this section, including the fact that such subjects will be considered at such meeting.

Sec. 16. Section 79-602, Reissue Revised Statutes of Nebraska, is amended to read:

79-602. All school boards, ~~and boards of education,~~ the governing authorities of any nonpublic schools in this state, and all independent contractors who or which provide student transportation services for such boards and governing authorities and for military installations shall cause all pupil transportation vehicles used for the transportation of students to be inspected before school opens in the fall and each eighty days during that part of the year when school is in session by a motor vehicle mechanic appointed by the board or governing authority having jurisdiction over such students, except that any pupil transportation vehicle that has been inspected under rules and regulations of the Public Service Commission shall be exempted from the provisions of this section. The mechanic shall thoroughly inspect every vehicle used for the transportation of students as to brakes, lights, windshield wipers, window glass, tires, doors, heaters, defrosting equipment, steering gear, exhaust system, and the mechanical condition of every part of such pupil transportation vehicle to ensure compliance with the minimum allowable safety criteria established pursuant to section 79-607 and subdivision (13) of section 79-318. Within five days after such inspection, the mechanic shall make a report of his or her inspection in writing on regular forms provided by the State Department of Education which shall show if the vehicle met the minimum allowable safety criteria for use. Any item not meeting such criteria shall be brought into compliance prior to the vehicle being used to transport students. One copy of the mechanic's report shall be filed with the board or governing authority and, if the school contracts with an independent contractor to provide transportation services,

one copy with the independent contractor. The chief administrative officer of each school district shall annually certify, by a written verification statement, to the State Department of Education that the inspections required pursuant to this section have been performed. Such verification statement shall be sent to the department no later than July 31. The chief administrative officer or chairperson of the board, the governing authority, or the independent contractor shall, upon request, make available the mechanic's inspection reports for each vehicle used for the transportation of students to the Nebraska State Patrol inspector when the annual school vehicle safety equipment inspections are conducted.

All such boards, governing authorities, and independent contractors shall also cause such pupil transportation vehicles used for the transportation of students to be safety inspected at least once during each calendar year by the Nebraska State Patrol or the patrol's carrier enforcement division to ensure compliance with the minimum allowable safety criteria prescribed in section 79-607 and subdivision (13) of section 79-318. Upon successful completion of such inspection, an approval sticker shall be placed by the inspector on the lower inside corner of the driver's side windshield as specified by the rules and regulations established pursuant to subdivision (13) of section 79-318, and within five days after such inspection the Nebraska State Patrol or the division shall make a report of its inspection in writing and file one copy of such report with the board, the governing authority, or the independent contractor and file one copy with the State Department of Education. If any inspection required by this section discloses any equipment not in compliance with the minimum allowable safety criteria, the pupil transportation vehicle shall immediately be removed from service until the defects are corrected to the satisfaction of a Nebraska State Patrol or division inspector.

All such boards, governing authorities, and independent contractors shall also cause each pupil transportation vehicle used for the transportation of students to be inspected by the Nebraska State Patrol or the patrol's carrier enforcement division for compliance with minimum equipment standards established pursuant to section 79-607 and subdivision (13) of section 79-318 prior to being placed into service for the first time in the State of Nebraska. After such inspection a one-time minimum equipment standards sticker shall be placed by the inspector on the lower left-hand inside corner of the windshield as specified by the rules and regulations established pursuant to subdivision (13) of section 79-318 if the pupil transportation vehicle meets such minimum standards. If the inspection reveals any equipment on the pupil transportation vehicle that is not in compliance with such minimum equipment standards, the vehicle shall not be put into service until such deficiencies are corrected and a minimum equipment standards sticker is placed on such vehicle. Failure to remove pupil transportation vehicles from service due to noncompliance with minimum safety or minimum equipment standards shall constitute a Class V misdemeanor, and conviction for such offense shall be grounds for dismissal of any employee.

In addition to the inspection requirements prescribed in this section, the driver of each pupil transportation vehicle shall make daily inspections of such vehicle to ensure that all lights and equipment are fully operational or repaired before his or her daily route. Reports of such daily inspections shall be kept by the driver in the vehicle and filed weekly with the head mechanic or administrator in charge of the transportation system. If the inspection reveals any significant defect in the lights or equipment, the driver shall immediately report the defect to the head mechanic or administrator in charge of the transportation system.

Sec. 17. Section 79-758, Revised Statutes Supplement, 1998, is amended to read:

79-758. (1) Quality education incentive payments shall be provided to local systems, as defined in section 79-1003, each year the local system meets the qualifications described in this section. The first two years a local system qualifies for quality education incentives, the system shall meet all of the primary quality factors in subsection (2) of this section. The third and fourth years a local system qualifies for quality education incentives, the system shall meet all of the primary quality factors in subsection (2) of this section and at least two of the premier quality factors in subsection (3) of this section. The fifth and sixth years a local system qualifies for quality education incentives, the system shall meet all of the primary quality factors in subsection (2) of this section and at least three of the premier quality factors in subsection (3) of this section. The seventh year and each year thereafter a local system qualifies for quality education incentives, the system shall meet all of the primary quality factors in subsection (2) of this section and at least four of the premier quality

factors in subsection (3) of this section except as provided in subsection (4) of this section.

(2) The primary quality factors are:

(a) Each district in the local system has adopted academic standards adopted and promulgated by the State Board of Education or academic standards approved by the state board as generally more rigorous than the academic standards adopted and promulgated by the state board;

(b) Each district in the local system has an alternative school, class, or educational program available or in operation for all expelled students pursuant to subsection (1) of section 79-266 or, for districts that do not have any expelled students, an adopted school board policy to have an alternative school, class, or educational program available or in operation for all expelled students pursuant to subsection (1) of section 79-266 if any expulsions occur; and

(c) At least sixty percent of the graduating seniors in the local system have taken a standard college admissions test. More than one standard college admissions test may be considered in the calculation of the sixty percent criterion as long as an individual Nebraska public school student is counted only once; and

(d) The graduating seniors in the local system who have taken a standard college admissions test and those students have an aggregate average test score, using the most recent highest test score on each test taken for each student who has taken at least one of the tests, above the statewide aggregate average test score. Each local system shall calculate the aggregate score of its graduating seniors who took a standard college admissions test by using the highest test score on each test taken for each student who has taken at least one of the tests. If more than sixty percent of the graduating seniors in the system took at least one of the standard college admissions tests, then only the scores of the number of top-scoring students needed to reach the minimum sixty percent level are to be counted to calculate the aggregate system average. At least twenty-five percent of the graduating seniors in the system must have taken a standard college admissions test in order for the system aggregate score on that test to be considered. The statewide aggregate average test score shall be the average of the test scores used in calculating the local system aggregate average test score for all local systems. on any of the standard college admissions tests which at least twenty-five percent of the graduating seniors have taken.

(3) The premier quality factors are:

(a) The local system has at least one teacher who has received credentials from a national nonprofit organization the purpose of which is to establish high and rigorous standards in a broad range of educational areas for what accomplished teachers should know and be able to do and which issues credentials to teachers who demonstrate that they meet those standards;

(b) At least thirty-six percent of the certificated teachers in the local system have advanced degrees or at least thirty graduate-level hours;

(c) Each first-year teacher in a local system is provided with a mentor participating in the mentor teacher program pursuant to section 79-761 or a mentor teacher program has been established by a district in the local system and approved by the state board;

(d) The high school district improves the annual percentage dropout rate from the prior year or maintains a dropout rate not to exceed four percent; and

(e) An approved program for learners with high ability pursuant to sections 79-1106 to ~~79-1108~~ 79-1108.03 is available to every student identified as a learner with high ability in the local system and there is at least one learner with high ability identified in the local system.

(4) If a local system in which at least forty percent of the formula students qualify for the poverty factor pursuant to section 79-1007.01 meets all of the qualifications for quality education incentive payments, including the requirement that at least sixty percent of the graduating seniors in the local system have taken a standard college admissions test, but except that the aggregate average college admissions test scores pursuant to subdivision ~~(2)(e)~~ (2)(d) of this section are not above the statewide average, the local system shall receive quality education incentive payments equal to fifty dollars per formula student multiplied by two times the percentage resulting when the number of local system graduating seniors who scored above the statewide average on any standard college admissions test, using the ~~most recent highest~~ test score on each test taken for each student who has taken at least one of the tests, is divided by the number of all local system graduating seniors who have taken a standard college admissions test.

(5) Local systems meeting the criteria in subsections (1) through (4) of this section may apply to the Excellence in Education Council for

quality education incentive payments on or before ~~October 1, 1998, for the 1998-99 school fiscal year and on or before July 1 each fiscal year thereafter~~ November 1, using the most recent information and data available. Upon review by the Excellence in Education Council, if the information and data in the application indicate that the local system meets the criteria in such subsections, the local system shall qualify for quality education incentive payments.

(6) Quality education incentive payments shall be made from the Education Innovation Fund on or before ~~December 1, 1998, for the 1998-99 school fiscal year and on or before September 1 of each school fiscal year thereafter beginning with the 1999-00 school fiscal year~~ the following January 15. The payments shall equal fifty dollars per adjusted formula student or one hundred dollars per adjusted formula student for local systems in the very sparse cost grouping based on the most recent certification of state aid pursuant to the Tax Equity and Educational Opportunities Support Act. Local systems which qualify to receive specially calculated payments pursuant to subsection (4) of this section are not eligible to receive one hundred dollars per adjusted formula student even though the system is in the very sparse cost grouping based on the most recent certification of state aid pursuant to the act. If the unobligated balance in the fund is less than the amount calculated for quality education incentive payments due to qualified local systems pursuant to this section, each qualified local system shall receive a pro rata amount such that the amount of payments equals the unobligated balance in the fund.

(7) Quality education incentive payments shall only be used for pilot projects or model programs for the purposes set forth in section 9-812 for major competitive grants. Incentive payments may not be used to supplant federal, state, or local funds. The payments shall be made to the high school district, and the high school district prior to the application shall determine how the payments shall be used after consultation with all Class I school districts in the local system. Quality education incentive payments, or portions of such payments, may be transferred to the Class I school districts. Quality education incentive payments shall not be included as local system formula resources pursuant to section 79-1018.01. The Excellence in Education Council may audit the use of quality education incentive payments at the discretion of the council.

Sec. 18. Section 79-803, Reissue Revised Statutes of Nebraska, is amended to read:

79-803. The Commissioner of Education may extend the term of the ~~teacher's certificate or administrator's certificate~~ of any person who has served in the armed forces of the United States and whose certificate was in force on the day of induction or the spouse of such person. This extension shall be equal in length of time to the total number of months which intervene between the date of entrance into the military service and the date of discharge therefrom. There shall be no fee for this service. Each person who applies for an extension of the term of his or her certificate shall furnish the Commissioner of Education proper evidence of service in the armed forces and of sound physical and mental health at the time he or she applies for such extension.

Sec. 19. Section 79-1003, Revised Statutes Supplement, 1998, 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 and, ~~for purposes of state aid paid in school fiscal year 1998-99 and each school fiscal year thereafter,~~ minus the special education receipts allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each ~~district in the state, for school fiscal years before school fiscal year 1998-99, and of each local system in the state, for school fiscal year 1998-99 and each school fiscal year thereafter~~ local system in the state, adjusted pursuant to the adjustment factors described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal 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 79-1015.01, 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 local system pursuant to section 79-1005.01 as adjusted by the minimum

levy adjustment pursuant to section 79-1008.02;

(4) Average daily attendance of a student who resides on Indian land means average daily attendance of a student who resides on Indian land from the most recent data available on November 1 preceding the school fiscal year in which aid is to be paid;

(5) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the district for school fiscal years before school fiscal year 1998-99, and for school fiscal year 1998-99 and each school fiscal year thereafter, attributable to the local system, as provided in each district's annual statistical summary, and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(6) Base fiscal year means (a) for school district reorganizations which occurred during the 1995-96 school fiscal year or the 1996-97 school fiscal year, the second school fiscal year following the school fiscal year in which the reorganization occurred or (b) for school district reorganizations or unifications which occur during or after the 1997-98 school fiscal year, the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

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

(8) Categorical funds means funds limited to a specific purpose by federal or state law, including, but not limited to, Title I funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, Head Start funds, funds from the Education Innovation Fund, and funds from the School Technology Fund;

(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) Department means the State Department of Education;

(11) District means any Class I, II, III, IV, V, or VI school district;

(12) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(13) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1008.01 to 79-1022;

(14) Fall membership means the total membership in kindergarten through grade twelve attributable to the district for school fiscal years before school fiscal year 1998-99, and for school fiscal year 1998-99 and each school fiscal year thereafter, attributable to the local system, as reported on the fall school district membership reports for each district pursuant to section 79-528;

(15) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(16) Formula students means (a) for state aid certified pursuant to section 79-1022, the sum of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid and the prior two school fiscal years, and tuitioned students from the school fiscal year immediately preceding the school fiscal 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 fiscal year immediately preceding the school fiscal year in which the aid was paid;

(17) Free lunch and free milk student means a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be 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, and the calculation of Class I total allowable general fund budget of expenditures minus the special education budget of expenditures pursuant to section 79-1083.03, and the calculation pursuant to subdivision (2) of section 79-1027.01, 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 funds, tuition paid, transportation fees paid to other districts, adult education, summer school, community services, redemption of the principal portion of general fund debt service, and transfers from other funds into the general fund. For state aid certified pursuant to section 79-1022 and budget limitations certified pursuant to section 79-1026, ~~for school fiscal year 1998-99 and each school fiscal year thereafter,~~ general fund operating expenditures shall equal the each local system's general fund operating expenditures from the most recently available complete data year, adjusted by the average annual change in each district's local system's general fund operating expenditures for the most recently available complete data year and the two school fiscal years immediately preceding the most recently available complete data year. For final calculation of state aid pursuant to section 79-1065, general fund operating expenditures shall be as reported in the annual financial reports from the most recently available complete data year;

(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) High school district means a school district providing instruction in at least grades nine through twelve;

(25) Limited English proficiency student means a student with limited English proficiency from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid;

(26) Local system means a Class VI district and the associated Class I districts or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

(27) Low-income child means a child under nineteen years of age living in a household having an annual adjusted gross income of fifteen thousand dollars or less for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated;

(28) 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 for the calendar year in which the majority of the school fiscal year falls, and adjusted valuation data are available;

(29) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

(30) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(31) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

(32) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(33) Special grant funds means the budgeted receipts for grants, including, but not limited to, Title I funds, Title VI funds, funds from the Education Innovation Fund, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment, that have been approved by the state board;

(34) Special ~~education receipts~~ allowance means the amount of special education, state ward, and accelerated or differentiated curriculum program receipts included in local system formula resources under subdivisions (7), (8), (16), and (17) of section 79-1018.01. For state aid certified pursuant to section 79-1022, the special ~~education receipts~~ allowance shall be adjusted by the average annual change in each ~~district's~~ local system's special ~~education receipts~~ allowance for the most recently available complete data year and the two school fiscal years immediately preceding the most recently available complete data year. For the final calculation of state aid pursuant to section 79-1065, the special ~~education receipts~~ allowance shall be as reported in the annual financial reports from the most recently available complete data year;

(34) ~~Special grant funds means the budgeted receipts for grants, including, but not limited to, Title I funds, Title VI funds, funds from the Education Innovation Fund, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment, that have been approved by the state board;~~

(35) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

(36) State board means the State Board of Education;

(37) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

(38)(a) Transportation allowance means the lesser of (i) ~~the~~ each local system's 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, except that for state aid certified pursuant to section 79-1022 and budget limitations certified pursuant to section 79-1026, the general fund operating expenditures for regular route transportation and in lieu of transportation expenditures shall equal such expenditures from the most recently available complete data year, adjusted by the average annual change in each ~~district's~~ such local system's expenditures for the most recently available complete data year and the two school fiscal years immediately preceding the most recently available complete data year or (ii) for each local system, the number of miles traveled in the most recently available complete data year by vehicles owned, leased, or contracted by the ~~district~~ local system 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 to in lieu of transportation expenditures pursuant to section 79-611 from the same data year or, for state aid certified pursuant to section 79-1022 and budget limitations certified pursuant to section 79-1026, ~~the~~ each local system's in lieu of transportation expenditures for this subdivision shall equal such expenditures from the most recently available complete data year, adjusted by the average annual change in each ~~district's~~ such local system's expenditures for the most recently available complete data year and the two school fiscal years immediately preceding the most recently available complete data year.

(b) For the final calculation of state aid pursuant to section 79-1065, the transportation allowance shall be the lesser of (i) the general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 79-611 as reported in the annual financial reports from 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 (ii) the number of miles traveled in the most recently available complete data year by vehicles owned, leased, or contracted by the ~~district~~ local system 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 to in lieu of transportation expenditures pursuant to section 79-611 from the same data year; and

(39) 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. 20. Section 79-1007.02, Revised Statutes Supplement, 1998, is amended to read:

79-1007.02. For state aid calculated for school fiscal year 1998-99 and each school fiscal year thereafter:

(1) Using data from the annual financial reports for the most recently available complete data year, the annual statistical summary reports for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the fall membership reports and supplements thereto for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, and the school district census as reported under sections 79-524 and 79-578 for the second school fiscal year preceding the school fiscal year in which aid is to be paid, the department shall divide the local systems into three cost groupings prior to the certification of state aid based upon the following criteria:

(a) The very sparse cost grouping will consist of local systems that have (i)(A) less than one-half student per square mile in ~~the~~ each county in which ~~the~~ each high school attendance center is located, based on the school

district census, (B) less than one formula student per square mile in the local system, and (C) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads or (ii)(A) more than four hundred fifty square miles in the local system, (B) less than one-half student per square mile in the local system, and (C) more than fifteen miles between ~~the~~ each high school attendance center and the next closest high school attendance center on paved roads;

(b) The sparse cost grouping will consist of local systems that do not qualify for the very sparse cost grouping but which meet the following criteria:

(i)(A) Less than two students per square mile in the county in which ~~the~~ each high school is located, based on the school district census, (B) less than one formula student per square mile in the local system, and (C) more than ten miles between ~~the~~ each high school attendance center and the next closest high school attendance center on paved roads;

(ii)(A) Less than one and one-half formula students per square mile in the local system and (B) more than fifteen miles between ~~the~~ each high school attendance center and the next closest high school attendance center on paved roads; ~~or~~

(iii)(A) Less than one and one-half formula students per square mile in the local system and (B) more than two hundred seventy-five square miles in the local system; or

(iv)(A) Less than two formula students per square mile in the local system and (B) ~~the~~ The local system includes an area equal to ninety-five percent or more of a ~~county~~ the square miles in the largest county in which a high school attendance center is located in the local system; and

(c) The standard cost grouping will consist of local systems that do not qualify for the very sparse or the sparse cost groupings.

For purposes of subdivision (1) of this section, if a local system did not operate and offer instruction in grades nine through twelve within the boundaries of the local system during the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the local system shall not be considered to have a high school attendance center;

(2) The department shall calculate the average formula cost per student in each cost grouping by dividing the total estimated general fund operating expenditures for the cost grouping by the total adjusted formula students for all local systems in the cost grouping. The calculation of total adjusted formula students for purposes of this subdivision shall take into account the requirements of subsection (2) of section 79-1007.01. The total estimated general fund operating expenditures for the cost grouping is equal to the total adjusted general fund operating expenditures for all local systems in the cost grouping multiplied by a cost growth factor. The cost growth factor for each cost grouping is equal to the sum of: (a) One; plus (b) the product of two times the ratio of the difference between the formula students attributable to the cost grouping without weighting or adjustment pursuant to section 79-1007.01 and the average daily membership attributable to the cost grouping for the most recently available complete data year divided by the average daily membership attributable to the cost grouping for the most recently available complete data year, except that the ratio shall not be less than zero; plus (c) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (d) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year immediately preceding the school fiscal year in which the aid is to be distributed; plus (e) one-half of any additional growth rate allowed by special action of school boards for the school fiscal year in which the aid is to be distributed as determined on or before December 1 of the school fiscal year immediately preceding the school fiscal year when aid is to be distributed; plus (f) one-half of any additional growth rate allowed by special action of the school boards for the school fiscal year immediately preceding the school fiscal year when the aid is to be distributed; and

(3) Each local system's formula need will be equal to the local system's transportation allowance plus the local system's special ~~education receipts~~ allowance plus the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping. The calculation of total adjusted formula students for purposes of this subdivision shall take into account the requirements of subsection (2) of section 79-1007.01.

Sec. 21. Section 79-1009, Revised Statutes Supplement, 1998, is amended to read:

79-1009. (1) A district in which option students as defined in section 79-233 were actually enrolled in the school year immediately preceding

the school year in which the aid is to be paid shall receive net option funding. For purposes of this section: (a) Net option funding is the sum of the products of the net number of option students in each grade range multiplied by the lesser of the statewide average cost grouping cost per student or the ~~option school district's~~ local system cost grouping cost per student multiplied by the weighting factor for the corresponding grade range pursuant to section 79-1007.01; and (b) net number of option students is the number of option students actually enrolled in a grade range in the current data year minus the number of students residing in the district but enrolled in another district in the same grade range in the current data year as option students as defined in section 79-233. A district's net option funding shall be zero if the calculation produces a negative result.

The determination of the net number of option students shall be based on the number of option students enrolled in the district or enrolled in another district as of the day of the fall membership count pursuant to section 79-528, for the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid. Payments made under this section shall be made from the funds to be disbursed under section 79-1005.01.

(2) Payments made pursuant to this section shall go directly to the option school district but shall count as a formula resource for the local system.

Sec. 22. Section 79-1016, Revised Statutes Supplement, 1998, is amended to read:

79-1016. (1) On or before July 1 of each year, the Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation for the current calendar year of each school district and each local system for each class of property in each ~~such school district and each~~ local system so that the valuation of property for each school district and each local system, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (2) of this section. The Property Tax Administrator shall also notify each school district and each local system of its adjusted valuation for the current calendar year by class on or before July 1 of each year. Establishment of the adjusted valuation shall be based on assessment practices established by rule and regulation adopted and promulgated by the Property Tax Administrator. The assessment practices may include, but not be limited to, the appraisal methods listed in section 77-112.

(2) For purposes of this section, state aid value means:

(a) For real property other than agricultural land, one hundred percent of market value;

(b) For agricultural land, eighty percent of market value as provided in sections 77-1359 to 77-1363; and

(c) For personal property, the net book value as defined in section 77-120.

(3) On or before July 31, any local system may file with the Property Tax Administrator written objections to the adjusted valuations prepared by the Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Property Tax Administrator shall fix a time for a hearing. Either party shall be permitted to introduce any evidence in reference thereto. On or before November 1, the Property Tax Administrator shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Property Tax Administrator shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Property Tax Administrator may be appealed to the Tax Equalization and Review Commission.

(4) On or before June 15, 1998, for adjusted valuations certified in 1997, and on or before October 31 for adjusted valuations certified each year thereafter, any local system or county official may file with the Property Tax Administrator a written request for a nonappealable correction of the adjusted valuation due to clerical error or, for agricultural land, assessed value changes by reason of land qualified or disqualified for special use valuation pursuant to sections 77-1343 to 77-1348. For purposes of this subsection, clerical error means transposition of numbers, allocation of value to the wrong school district, mathematical error, and omitted value. On or before June 30, 1998, for adjusted valuations certified in 1997, and on or before November 30 for valuations certified each year thereafter, the Property Tax Administrator shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State

Department of Education.

(5) No injunction shall be granted restraining the distribution of state aid based upon the adjusted valuations pursuant to this section.

(6) Beginning with the 1997-98 school fiscal year, in the school fiscal year beginning during the calendar year that a county board adopts special valuation for all qualifying property in the county pursuant to sections 77-1343 to 77-1348, the adjusted valuation used in the calculation of state aid shall not exceed one hundred eight percent of the assessed valuation for the property tax year on which the adjusted valuation is based.

(7) A school district whose state aid is to be calculated pursuant to subsections (4) and (6) of this section and whose state aid payment is postponed as a result of failure to calculate state aid pursuant to such subsections may apply to the state board for lump-sum payment of such postponed state aid. Such application may be for any amount up to one hundred percent of the postponed state aid. The state board may grant the entire amount applied for or any portion of such amount. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in a lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, at the time of the next state aid payment made pursuant to section 79-1022, draw a warrant for the lump-sum amount from appropriated funds and forward such warrant to the district.

Sec. 23. Section 79-1022, Revised Statutes Supplement, 1998, is amended to read:

79-1022. (1) On or before December 1 of each year, the department shall determine the amounts to be distributed to each local system and each district pursuant to the Tax Equity and Educational Opportunities Support Act based on estimated funding levels provided by the Legislative Fiscal Analyst and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each district. The Legislative Fiscal Analyst shall provide such estimated funding level not later than November 1 of each year. The amount to be distributed to each district from the amount certified for a local system shall be proportional based on the weighted formula students attributed to each district in the local system.

(2) Except as provided in subsection (7) of section 79-1016, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a school district is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year. Such certified state aid amounts shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

Sec. 24. Section 79-1024, Revised Statutes Supplement, 1998, is amended to read:

79-1024. (1) The department may require each district to submit to the department a duplicate copy of such portions of the district's budget statement as the Commissioner of Education directs. The department may verify any data used to meet the requirements of the Tax Equity and Educational Opportunities Support Act. The Auditor of Public Accounts, after consultation with the department, shall review each district's budget statement for statutory compliance, make necessary changes in the budget documents for districts to effectuate the budget limitations imposed pursuant to sections 79-1023 to 79-1030, and notify the Commissioner of Education (a) of any district failing to submit to the department or the auditor the budget documents required pursuant to this subsection by the date established in subsection (1) of section 13-508 or failing to make any corrections of errors in the documents pursuant to section 13-504 and (b) of any Class I district failing to submit the items required by ~~such~~ this subsection to its high school districts by the date established in section 79-1083.03.

(2) If a school district fails to submit to the department or the auditor the budget documents required pursuant to subsection (1) of this section by the date established in subsection (1) of section 13-508 or fails to make any corrections of errors in the documents pursuant to section 13-504 or a Class I district fails to submit the items required by such subsection to its high school districts by the date established in section 79-1083.03, the commissioner, upon notification from the auditor or upon his or her own knowledge that the required budget documents and any required corrections of errors from any school district have not been properly filed in accordance with the Nebraska Budget Act and after notice to the district and an

opportunity to be heard, shall direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the required budget documents or corrections of errors are received by the auditor and the department. In addition, the commissioner shall notify the county superintendent to direct the county treasurer to withhold all school money belonging to the school district until such time as the commissioner notifies the county superintendent of receipt of the required budget documents or corrections of errors. The county treasurer shall withhold such money. If the school district does not comply with this section prior to the end of the state's biennium following the biennium which included the fiscal year for which state aid was calculated, the state aid funds shall revert to the General Fund. The amount of any reverted funds shall be included in data provided to the Governor in accordance with section 79-1031. The board of any district failing to submit to the department or the auditor the budget documents required pursuant to this section by the date established in subsection (1) of section 13-508 or failing to make any corrections of errors in the documents pursuant to section 13-504 or the board of a Class I district failing to submit the items required by such subsection to its high school districts by the date established in section 79-1083.03 shall be liable to the school district for all school money which such district may lose by such failing.

Sec. 25. Section 79-1026, Revised Statutes Supplement, 1998, is amended to read:

79-1026. On or before December 1 of each year, the department shall determine and certify to each Class II, III, IV, V, or VI district an applicable allowable growth percentage carried out at least four decimal places for each local system as follows:

(1) For each school fiscal year, the department shall determine a target budget level for each local system by multiplying the adjusted formula students as calculated pursuant to section 79-1007.01 by the cost grouping cost per student as calculated under section 79-1007.02. The sum of such product and the local system's special ~~education~~ receipts allowance and transportation allowance shall be each local system's target budget level;

(2) The department shall establish a target budget level range of general fund operating expenditure levels for each school fiscal year for each local system which shall begin at twenty percent less than the target budget level and end at the target budget level. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section 79-1025, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in such section such that the lower end of the range shall be assigned the maximum allowable growth rate and the higher end of the range shall be assigned the basic allowable growth rate; and

(3) For each school fiscal year, each local system's general fund operating expenditures shall be compared to its target budget level along the range described in subdivision (2) of this section to arrive at an applicable allowable growth rate as follows: If each local system's general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section 79-1025. If each local system's general fund operating expenditures are greater than the higher end of the range, the local system's allowable growth rate shall be the basic growth rate identified in such section. If each local system's general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear interpolation calculation between the end points of the range to arrive at the applicable allowable growth rate for the local system.

Sec. 26. Section 79-1027, Revised Statutes Supplement, 1998, is amended to read:

79-1027. No district shall adopt a budget, which includes total requirements of contingency funds, total requirements of depreciation funds, necessary employee benefit fund cash reserves, and necessary general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

Average daily membership of district	Allowable reserve percentage
0 - 471	45
471.01 - 3,044	35
3,044.01 - 10,000	25
10,000.01 and over	20

On or before December 1 of each year, the department shall determine

and certify each district's applicable allowable reserve percentage.

Each district with combined necessary general fund cash reserves, total requirements of depreciation funds, necessary employee benefit fund cash reserves, and total requirements of contingency funds less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable growth percentage, increase its necessary general fund cash reserves by an amount which will increase its combined necessary general fund cash reserves, total requirements of depreciation funds, necessary employee benefit fund cash reserves, and total requirements of contingency funds by two percent of its total general fund budget of expenditures, except that (1) a district shall not increase such necessary general fund cash reserves when such increase will result in total necessary general fund cash reserves, total requirements of depreciation funds, necessary employee benefit fund cash reserves, and total requirements of contingency funds which exceed the applicable allowable reserve percentage and (2) a district may increase such necessary general fund cash reserves in excess of such two percent limitation due to projected increases in federal funds.

Sec. 27. Section 79-1027.01, Revised Statutes Supplement, 1998, is amended to read:

79-1027.01. ~~Beginning with school fiscal year 1998-99, if~~ If the total levy required for property tax requests for all general fund budgets in a local system exceeds the amount that can be generated by the maximum levy pursuant to subdivision (2)(a) of section 77-3442, the high school district shall be entitled to take the necessary steps to comply with such maximum levy by:

(1) Reducing the property tax request for each district up to the amount by which the district's budgeted general fund cash reserve exceeds fifteen percent of the district's general fund budget of expenditures for the preceding school fiscal year, and for Class I districts, this difference multiplied by the percentage of affiliation with the high school district;

(2) If the reductions under subdivision (1) of this section do not reduce the required levy to the maximum levy permitted under subdivision (2)(a) of section 77-3442, reducing the property tax request for each district proportionately based on the amount of the difference between the district's general fund budget of expenditures minus the special education budget of expenditures for the current budget year and a two-year average for the two preceding school fiscal years of the general fund budget of expenditures minus the special education budget of expenditures up to such difference, and for Class I districts, this difference multiplied by the percentage of affiliation with the high school district; and

(3) If the reductions under subdivisions (1) and (2) of this section do not reduce the required levy to the maximum levy permitted under subdivision (2)(a) of section 77-3442, reducing the property tax request for each district by an amount proportional to the district's share of the total property tax request for the preceding school fiscal year such that the required local system levy shall be the maximum levy allowed under subdivision (2)(a) of section 77-3442. Class I districts with multiple affiliations which are required under one or more of such affiliations to reduce their general fund property tax request shall make such reduction as necessary to effect the total required from this calculation within each local system requiring the reduction.

Sec. 28. Section 79-1029, Revised Statutes Supplement, 1998, is amended to read:

79-1029. (1) A Class II, III, IV, V, or VI district may exceed the basic allowable growth rate prescribed in section 79-1025 upon an affirmative vote of at least seventy-five percent of the board. The total growth shall not exceed the applicable allowable growth percentage certified for the local system under section 79-1026 plus one percent. The vote shall be taken at a public meeting of the board following a special public hearing called for the purpose of receiving testimony on such proposed increase. The board shall give at least ~~seven~~ five calendar days' notice of such public hearing and shall publish such notice at least once in a newspaper of general circulation in the local system.

(2) A Class II, III, IV, V, or VI district may exceed the applicable allowable growth percentage prescribed in section 79-1026 by an amount approved by a majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the board or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the district. The recommendation of the board or the petition of the legal voters shall include the amount and percentage by which the board would

increase its general fund budget of expenditures for the ensuing school year over and above the current year's general fund budget of expenditures. The county clerk or election commissioner shall call for a special election on the issue within fifteen days after the receipt of such board recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the district. The issue may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

Sec. 29. Section 79-1063, Reissue Revised Statutes of Nebraska, is amended to read:

79-1063. The State Department of Education Trust Fund is created. The fund shall consist of all property, real or personal, acquired by donation, devise, or bequest by the Nebraska School for the Visually Handicapped, ~~by the Nebraska School for the Deaf, or by any school for children with mental retardation which is exclusively owned by the State of Nebraska and under the control and supervision of the State Department of Education or the Nebraska Center for the Education of Children who are Blind or Visually Impaired~~ and all money derived from the sale or lease of property donated, devised, or bequeathed to ~~any such school~~ the school or center. Out of money in such fund not restricted from such use by the terms of the donation, devise, or bequest, an emergency cash fund of not to exceed five hundred dollars shall be established for immediate and unusual needs as may arise. Such emergency cash fund shall be reimbursed from the State Department of Education Trust Fund for any expenditures.

Any money in the State Department of Education Trust Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, subject to the following exceptions: (1) No such investment need be made if, according to the terms of the donation, devise, or bequest, the State Board of Education is not limited to the expenditure of only the interest or income derived from the donation, devise, or bequest; and (2) no such investment shall be made if the will or instrument making such donation, devise, or bequest makes other provisions or directions as to investment and in such cases the state investment officer, acting for the State Board of Education, shall comply with the provisions or directions of such will or instrument if such provisions or directions are not inconsistent with the laws of this state.

Sec. 30. Section 79-1072.01, Revised Statutes Supplement, 1998, is amended to read:

79-1072.01. (1) Temporary mitigation funds shall be distributed to local systems which have property tax and state aid resources for school fiscal year 1998-99 which are less than ninety percent of their property tax and state aid resources for school fiscal year 1997-98. The local system shall receive a lump-sum payment in an amount equal to ninety percent of the school fiscal year 1997-98 property tax and state aid resources minus the school fiscal year 1998-99 property tax and state aid resources if the following criteria are met:

(a) The local system's school fiscal year 1997-98 general fund budget of expenditures minus the special education budget of expenditures did not exceed the school fiscal year 1995-96 general fund budget of expenditures minus the special education budget of expenditures by more than two percent plus the two-year percentage growth in students for the local system; and

(b)(i) The local system has shown an intent to merge, consolidate, or unify with at least one specified high school district by June 1, 1999, through a public affirmative vote by the school board of the high school district in the local system with a majority of the members of the school board signing an affidavit acknowledging that the intent of the signing board member is to proceed with a merger, consolidation, or unification involving the district on the board of which they are serving. Affidavits shall be filed with the State Department of Education on or before August 1, 1998. The temporary mitigation funds provided in this section shall be returned if the receiving district does not merge, consolidate, or unify prior to June 30, 2000. The temporary mitigation funds need not be returned if, prior to June 30, 2000, the receiving district is unable as determined by the State Committee for the Reorganization of School Districts to merge, consolidate, or unify despite good faith efforts because all districts with which the receiving district could reasonably be expected to merge, consolidate, or unify declined such merger, consolidation, or unification;

(ii) The local system is within the sparse cost grouping or the very sparse cost grouping pursuant to section 79-1007.02;

(iii) The local system contains more than one hundred seventy-five square miles; or

(iv) The local system is subject to loss of state aid due to clerical error as defined in subsection (4) of section 79-1016.

(2) If the payments due to local systems under this section exceed the amount of funds appropriated by the Legislature, the funds shall be distributed on a pro rata basis to such local systems. Payments shall be made on or before September 15, 1998. Payments to local systems that include Class I districts shall be divided proportionally among the districts in the local system based on the weighted formula students attributed to each district in the local system for the certification of state aid to be paid in school fiscal year 1998-99. The department shall identify local systems which qualify for payments under this section and shall distribute the funds to the districts in qualifying local systems.

(3) The department shall adjust payments of state aid as defined in subdivision (35) of section 79-1003 to those school districts which received temporary mitigation funds and did not merge after a final determination by the State Committee for the Reorganization of School Districts. If the total adjustment cannot be made from the funds to be provided in the ensuing school fiscal year, the adjustment shall be prorated, with additional adjustments to payments for the future school fiscal years. The department shall maintain an accurate account and a record of the reasons the adjustments were made and the amount of such adjustments.

(4) For purposes of this section:

(a) Local system has the definition found in section 79-1003;

(b) Property tax and state aid resources for school fiscal year 1997-98 means the sum of state aid distributed pursuant to the Tax Equity and Educational Opportunities Support Act for school fiscal year 1997-98 plus the product of the general fund common levy for school fiscal year 1997-98 multiplied by the local system's assessed valuation for 1997;

(c) Property tax and state aid resources for school fiscal year 1998-99 means the sum of state aid certified pursuant to the Tax Equity and Educational Opportunities Support Act for school fiscal year 1998-99 plus the product of a levy of one dollar and ten cents per one hundred dollars multiplied by the local system's adjusted valuation for 1998 as certified by the Property Tax Administrator on or before July 1, 1998; and

(d) Two-year percentage growth in students means the sum of the growth in students for school fiscal year 1996-97 and school fiscal year 1997-98 to be calculated by applying the methodology in section 79-1025 as it existed on January 1, 1998, except that growth in students is calculated for local systems rather than districts and may be negative for each school fiscal year for the purpose of adding the growth in students together from each school fiscal year but the two-year percentage growth rate shall be zero if the sum is negative.

Sec. 31. Section 79-1083.02, Revised Statutes Supplement, 1998, is amended to read:

79-1083.02. On or before December 1 of each year the State Department of Education shall designate a primary high school district for each Class I school district for the following school fiscal year. The primary high school district shall be the one Class II, III, IV, V, or VI school district or the unified system with which the greatest share of the Class I district's assessed valuation is affiliated or of which such share is a part for the school fiscal year immediately preceding the school fiscal year ~~in~~ for which the primary high school district determination is made. The department shall certify to all school districts and all county clerks the primary high school district for each Class I district.

Sec. 32. Section 79-1083.03, Revised Statutes Supplement, 1998, is amended to read:

79-1083.03. (1)(a) If the primary high school district designated pursuant to section 79-1083.02 is a Class VI district, the Class I district's total allowable general fund budget of expenditures minus the special education budget of expenditures shall be determined by the school board of such Class VI district and shall be certified to the Class I district on or before January 1 of each year for the following school fiscal year.

(b) The Class VI primary high school district shall certify the total allowable general fund budget of expenditures minus the special education budget of expenditures for the Class I district to the State Department of Education on or before April 1.

(2) If the primary high school district is not a Class VI district, the Class I district's total allowable general fund budget of expenditures minus the special education budget of expenditures shall be determined by the department as follows and certified on or before December 1 of each year for the following school fiscal year:

(a) The total allowable general fund budget of expenditures minus

the special education budget of expenditures for the Class I district in the school fiscal year immediately preceding the school fiscal year for which the budget is prepared shall be divided by the formula students in the Class I district as defined in section 79-1003, and the result shall be increased by the applicable allowable growth rate for the primary high school district's local system for the ensuing school fiscal year calculated pursuant to section 79-1026 as determined on or before December 1 of the school fiscal year immediately preceding the school fiscal year for which the budget is prepared;

(b) The total allowable general fund budget of expenditures minus the special education budget of expenditures for the primary high school district in the school fiscal year immediately preceding the school fiscal year for which the budget is prepared shall be divided by the formula students as defined in section 79-1003 in the primary high school district weighted by the grade weighting factors contained in subdivision (1)(a) of section 79-1007.01, and the result shall be multiplied by the kindergarten through grade eight formula students as defined in section 79-1003 weighted by the grade weighting factors contained in subdivision (1)(a) of section 79-1007.01 to calculate the total allowable general fund budget of expenditures minus the special education budget of expenditures for kindergarten through grade eight in the primary high school district. The total allowable general fund budget of expenditures minus the special education budget of expenditures for kindergarten through grade eight shall be divided by the kindergarten through grade eight formula students without weighting. The result shall be increased by the applicable allowable growth rate for the primary high school district's local system for the ensuing school fiscal year calculated pursuant to section 79-1026 as determined on or before December 1 of the school fiscal year immediately preceding the school fiscal year for which the budget is prepared;

(c) The amounts calculated in subdivisions (2)(a) and (2)(b) of this section shall be summed and the result divided by two to arrive at the total allowable general fund budget of expenditures minus the special education budget of expenditures per formula student for the Class I district; and

(d) The total allowable general fund budget of expenditures minus the special education budget of expenditures per formula student for the Class I district shall be multiplied by the formula students as defined in section 79-1003 for the Class I district as used by the department for certification of the ensuing school fiscal year's state aid, and the result shall be the total allowable general fund budget of expenditures minus the special education budget of expenditures for the Class I district for the ensuing school fiscal year except as provided in subsection (3) of this section.

(3)(a) The school board of the Class I district may, prior to February 1 of each year beginning in 1998, submit a request to exceed the total allowable general fund budget of expenditures minus the special education budget of expenditures to all the school boards of the high school district or districts with which the Class I district is affiliated or of which it is a part. For Class I districts to exceed the total allowable general fund budget of expenditures minus the special education budget of expenditures, the total general fund budget of expenditures request shall be approved by high school districts, including the primary high school district, such that the portions of the Class I district that are affiliated with or part of the approving high school districts comprise at least two-thirds of the assessed valuation of the Class I district. Such request shall specify the total general fund budget of expenditures, broken down by expenditures for special education, for regular education, and for special grant funds as defined in section 79-1003, for which the Class I district seeks authority.

(b) The high school district shall ~~set on~~ approve or deny the request by March 1 following the receipt of such request and shall forward written notification to the Class I district of approval or denial. A request for additional budget authority shall be considered approved if no action is taken by the high school district.

(4)(a) The school board of a Class I district which receives approval to exceed the total allowable general fund budget of expenditures minus the special education budget of expenditures pursuant to subsection (3) of this section may, after February 1 of each year beginning in 1999, submit a request to exceed the total allowable general fund budget of expenditures by increasing the special education budget of expenditures to all the school boards of the high school districts or districts with which the Class I district is affiliated or of which it is a part. For Class I districts to exceed the total allowable general fund budget of expenditures approved pursuant to such subsection by increasing the special education budget of expenditures, the request shall be approved by high school districts, including the primary high school district, such that the portions of the Class I district that are affiliated with or part of the approving high school

districts comprise at least two-thirds of the assessed valuation of the Class I district. Such request shall specify the total special education budget of expenditures requested and the total special education budget of expenditures in the request approved pursuant to such subsection, with the difference being the requested increase in the total allowable general fund budget of expenditures.

(b) The high school district shall approve or deny the request within forty-five days following the receipt of such request and shall forward written notification to the Class I district of approval or denial. The request shall be considered approved if no action is taken by the high school district within forty-five days following the receipt of the request.

(5) All ~~For school fiscal year 1998-99 and each school fiscal year thereafter,~~ all Class I districts shall certify the items required by subsection (1) of section 13-508 to all of their high school districts on or before August 1.

~~(5)~~ (6) All primary high school districts shall certify to the department and all other affected districts, on or before April 1, the approved ~~budget authority~~ total general fund budget of expenditures for a Class I district when the Class I district has requested to exceed its certified budget authority and the request has been approved.

Sec. 33. Section 79-1090, Revised Statutes Supplement, 1998, is amended to read:

79-1090. When a school board of any class of school district fails to approve a school district budget on or before ~~September 10~~ the date required by subsection (1) of section 13-508, the county superintendent of the county where the administrative headquarters of the school district is located shall prepare and file a budget document in accordance with the Nebraska Budget Act for the school district's general fund and for each other fund for which the district budgeted in the immediately preceding fiscal year. The document shall use the total budget of expenditures and cash reserves from the immediately preceding school fiscal year, except that in no case shall the budget of expenditures or cash reserves exceed any limits prescribed in the Tax Equity and Educational Opportunities Support Act or other state laws. The county superintendent shall also estimate the revenue from sources other than property tax for each fund in accordance with subdivision (1)(c) of section 13-504 and section 79-1022.

Sec. 34. Section 79-10,110, Revised Statutes Supplement, 1998, is amended to read:

79-10,110. (1) A school board, ~~or board of education,~~ after making a determination that an actual or potential environmental hazard or accessibility barrier exists within the school buildings or grounds under its control, may make and deliver to the county clerk of such county in which any part of the school district is situated, not later than the date provided in section 13-508, an itemized estimate of the amounts necessary to be expended for the abatement of such environmental hazard or accessibility barrier elimination in its school buildings or grounds. The board shall conduct a public hearing on the itemized estimate prior to presenting such estimate to the county clerk. Notice of the place and time of such hearing shall, at least five days prior to the date set for hearing, be published in a newspaper of general circulation within the school district or be sent by direct mailing to each resident within the district.

(2) The board shall designate the particular environmental hazard abatement project or accessibility barrier elimination project for which the tax levy provided for by this section will be expended, the period of years, which shall not exceed ten years, for which the tax will be levied for such project, and the amount of the levy for each year of the period. The board may designate more than one project and levy a tax pursuant to this section for each such project, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each levy will not exceed the limitations specified in this section. Each levy for a project which is authorized by this section may be imposed for such duration as shall be specified by the board notwithstanding the contemporaneous existence or subsequent imposition of any other levy for another project imposed pursuant to this section and notwithstanding the subsequent issuance by the district of bonded indebtedness payable from its general fund levy.

(3) The county clerk shall levy such taxes, not to exceed five and one-fifth cents per one hundred dollars of taxable valuation for Class II, III, IV, V, and VI districts, and not to exceed the limits set for Class I districts in section 79-10,124, on the taxable property of the district necessary to cover the project costs itemized by the board. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the

treasurer of the district and used to cover the project costs.

(4) If such board operates grades nine through twelve as part of an affiliated school system, it shall designate the fraction of the project to be conducted for the benefit of grades nine through twelve. Such fraction shall be raised by a levy placed upon all of the taxable value of all taxable property in the affiliated school system pursuant to subsection (2) of section 79-1075. The balance of the project to be conducted for the benefit of grades kindergarten through eight shall be raised by a levy placed upon all of the taxable value of all taxable property in the district which is governed by such board. The combined rate for both levies in the high school district, to be determined by such board, shall not exceed five and one-fifth cents on each one hundred dollars of taxable value.

(5) Each board which submits an itemized estimate shall establish an environmental hazard abatement and accessibility barrier elimination project fund. Taxes collected pursuant to this section shall be credited to such fund to cover the project costs. Such estimates may be presented to the county clerk and taxes levied accordingly. The Director of Regulation and Licensure shall, by January 1 of the years 1993, 1995, 1997, and 1999, deliver a report to the Legislature estimating the amount of hazardous materials which remain in the public schools of the state.

(6) The itemized estimate submitted by a board may include the actual cost of abatement of an environmental hazard when such abatement occurred prior to the delivery of such estimate to the county clerk and was completed after June 28, 1982.

(7) For purposes of this section:

(a) Abatement includes, but is not limited to, any inspection and testing regarding environmental hazards, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate environmental hazards, any removal or encapsulation of environmentally hazardous material or property, any restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate environmental hazards in the school buildings or on the school grounds under the board's control, except that abatement does not include the encapsulation of any material containing more than one percent friable asbestos;

(b) Accessibility barrier means anything which impedes entry into, exit from, or use of any building or facility by all people;

(c) Accessibility barrier elimination includes, but is not limited to, inspection for and removal of accessibility barriers, maintenance to reduce, lessen, put an end to, diminish, control, dispose of, or eliminate accessibility barriers, related restoration or replacement of facilities or property, any related architectural and engineering services, and any other action to eliminate accessibility barriers in the school buildings or grounds under the board's control; and

(d) Environmental hazard means any contamination of the air, water, or land surface or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation.

(8) Accessibility barrier elimination project costs includes, but is not limited to, inspection, maintenance, accounting, emergency services, consultation, or any other action to reduce or eliminate accessibility barriers.

(9) For the purpose of paying amounts necessary for the abatement of environmental hazards and accessibility barrier elimination, the board may borrow money and issue bonds and other evidences of indebtedness of the district, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the district of amounts received in respect of the tax levy provided for by this section and any other funds of the district available therefor. Bonds and other evidences of indebtedness issued by a district pursuant to this subsection shall not constitute a general obligation of the district or be payable from any portion of its general fund levy.

Sec. 35. Section 79-10,124, Revised Statutes Supplement, 1998, is amended to read:

79-10,124. The amount of special tax levied under sections 79-10,122 to 79-10,125 shall not exceed five cents on each one hundred dollars upon the taxable value of all taxable property in the school district above the amount allowed by law for general school purposes when combined with the tax levied by a Class I district under section 79-10,110, and the total amount voted for the period of years shall not exceed five percent of the taxable valuation of the school district.

For Class I districts, the school board of the primary high school

district designated pursuant to section 79-1083.02 must approve any use of the special tax levied under sections 79-10,110 and 79-10,122 to 79-10,125 and provide written notification of such approval to the Class I district school board.

Sec. 36. Section 79-1110, Revised Statutes Supplement, 1998, is amended to read:

79-1110. Sections 79-1110 to 79-1183.01 and section 51 of this act shall be known and may be cited as the Special Education Act.

Sec. 37. Section 79-1113, Revised Statutes Supplement, 1998, is amended to read:

79-1113. For purposes of the Special Education Act, unless the context otherwise requires, the definitions found in sections 79-1114 to 79-1125 and section 51 of this act shall be used.

Sec. 38. Section 79-1118.01, Revised Statutes Supplement, 1998, is amended to read:

79-1118.01. Disability means an impairment which causes a child to be classified as mentally retarded, hard of hearing, deaf, speech and language impaired, blind and visually impaired, behaviorally disordered, orthopedically impaired, other health impaired, deaf-blind, or developmentally delayed or as having multiple disabilities or specific learning disabilities, traumatic brain injury, or autism and causes such child to need special education and related services. For purposes of this section:

(1) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has a serious emotional disturbance;

(2) Behaviorally disordered means a condition in which a child exhibits one or more of the following characteristics over a long period of time and to a marked degree which adversely affects educational performance:

(a) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(c) Inappropriate types of behavior or feelings under normal circumstances;

(d) A general pervasive mood of unhappiness or depression; or

(e) A tendency to develop physical symptoms or fears associated with personal or school problems.

Behaviorally disordered includes schizophrenia but does not include social maladjustment unless the characteristics defined in subdivision (a) or (b) of this subdivision are also present;

(3) Blind and visually impaired means partially seeing or blind, which visual impairment, even with correction, adversely affects a child's educational performance;

(4) Deaf means a hearing impairment which is so severe that processing linguistic information through hearing, with or without amplification, is impaired to the extent that educational performance is adversely affected;

(5) Deaf-blind means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that such impairments cannot be accommodated in special education programs solely for children who are deaf or blind;

(6) Developmental delay means either a significant delay in function in one or more of the following areas: (a) Cognitive development; (b) physical development; (c) communication development; (d) social or emotional development; or (e) adaptive behavior or skills development, or a diagnosed physical or mental condition that has a high probability of resulting in a substantial delay in function in one or more of such areas;

(7) Hard of hearing means a hearing impairment, whether permanent or fluctuating, which adversely affects educational performance but is not included under the term deaf in subdivision (4) of this section;

~~(8)~~ (8) Mentally retarded means a condition in which a child exhibits significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period which adversely affects educational performance;

~~(9)~~ (9) Multiple disabilities means concomitant impairments, such as mentally retarded-blind or mentally retarded-orthopedically impaired, the

combination of which causes such severe educational problems that a child with such impairments cannot be accommodated in special education programs for one of the impairments. Multiple disabilities does not include deaf-blind;

~~(9)~~ (10) Orthopedically impaired means a severe orthopedic impairment which adversely affects a child's educational performance. Severe orthopedic impairments include impairments caused by (a) congenital anomaly, including, but not limited to, clubfoot or absence of a member, (b) disease, including, but not limited to, poliomyelitis or bone tuberculosis, or (c) other causes, including, but not limited to, cerebral palsy, amputations, and fractures and burns which cause contractures;

~~(10)~~ (11) Other health impaired means having limited strength, vitality, or alertness due to chronic or acute health problems, including, but not limited to, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance;

~~(11)~~ (12) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Specific learning disability includes, but is not limited to, perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia;

~~(12)~~ (13) Speech-and-language-impaired means having a communication disorder such as stuttering, impaired articulation, language impairments, or voice impairment which adversely affects a child's educational performance; and

~~(13)~~ (14) Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

The State Department of Education may group or subdivide the classifications of children with disabilities for the purpose of program description and reporting. The department shall establish eligibility criteria and age ranges for the disability classification of developmental delay.

Sec. 39. Section 79-1128, Revised Statutes Supplement, 1998, is amended to read:

79-1128. The special education programs required by section 79-1127 may be provided by any school district, by contracting with another school district or service agency, or by some combination of school districts, an educational service unit, combination of educational service units, the local or regional office of mental retardation, any program approved by the State of Nebraska, or any combination thereof, except that only nonsectarian services shall be considered for approval by the State of Nebraska. Any office of mental retardation program receiving funds under the Special Education Act shall not use such funds to match state funds under the provisions of other programs. The members of the school board ~~or board of education~~ of any school district not offering continuous special education programs acceptable to the State Board of Education shall be in violation of the law. No state funds shall be paid to any school district as long as such violation exists, but no deduction shall be made from any funds required by the Constitution of Nebraska to be paid to such district. ~~On December 31 of each year, the Commissioner of Education shall present to the State Board of Education, the Attorney General, the Department of Administrative Services, the State Treasurer, and the Executive Board of the Legislative Council a list of all school districts not providing or contracting for approved programs.~~

Sec. 40. Section 79-1135, Revised Statutes Supplement, 1998, is amended to read:

79-1135. Each school district shall demonstrate participation in a plan of services for children with disabilities who are less than five years of age. Such plans shall be prepared on a regional basis as determined by the State Department of Education and updated annually. The contents of the plans shall include, but not be limited to:

(1) A listing of the programs existing during the initial planning period and the personnel involved and their qualifications;

(2) A census by name, school district of residence, and disability

of all children with disabilities who are less than five years of age;

(3) A procedure for identification and referral of children with disabilities;

(4) An agreement setting forth the responsibilities and level of participation of each service agency within the region; and

(5) Budgets for the proposed program.

~~Plans for program expansions, revisions, and reductions and budget information on programs for children with disabilities who are less than five years of age shall be reported annually on dates specified by the State Department of Education.~~ The content of such plans and the required budget information shall be prescribed by the department.

~~The State Board of Education shall annually approve, approve with modifications, or disapprove the requests for program expansions.~~ Supplementary amendments to any program plans and budgets previously approved by the State Board of Education may be submitted on dates specified by the department during the same school year and shall be subject to the same review as the initial plans and budgets.

Sec. 41. Section 79-1138, Revised Statutes Supplement, 1998, is amended to read:

79-1138. (1) The State Board of Education shall adopt and promulgate rules and regulations ~~to be effective after August 17, 1987,~~ establishing criteria for the assessment, identification, and verification of all disabilities defined in section 79-1118.01 to the extent that such disabilities are consistent with federal law and regulation.

(2) The State Board of Education shall develop guidelines ~~prior to August 17, 1998,~~ to assist school districts, educational service units, and approved cooperatives with the assessment, identification, and verification of the need for related services defined in section 79-1121.

Sec. 42. Section 79-1140, Revised Statutes Supplement, 1998, is amended to read:

79-1140. Except as provided in sections 79-232 to 79-246, ~~and 79-1141,~~ each school district shall pay an amount equal to the average per pupil cost of the service 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 with a disability who is a resident of the district and is 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 service agency whose programs are approved by the State Department of Education.

Sec. 43. Section 79-1142, Revised Statutes Supplement, 1998, is amended to read:

79-1142. (1) Level I services refers to services provided to children with disabilities who require an aggregate of not more than three hours per week of special education services and support services and includes all administrative, diagnostic, consultative, and vocational-adjustment counselor services. Support services means preventive services for students not identified or verified as having a disability pursuant to sections 79-1118.01 and 79-1138 but who demonstrate a need for specially designed assistance in order to benefit from the school's general education curriculum. The total allowable reimbursable cost for support services shall not exceed a percentage, established by the State Board of Education, of the school district's or approved cooperative's total allowable reimbursable cost for all special education programs and support services. The percentage established by the State Board of Education for support services shall not exceed ten percent.

(2) ~~For special education programs provided in fiscal years 1995-96 and 1996-97, the State Department of Education shall reimburse each school district in the following school fiscal year a pro rata amount determined by the State Board of Education from appropriations for special education approved by the Legislature and based on allowable excess costs for all special education programs.~~ For special education and support services provided in school fiscal year 1997-98 and each school fiscal year, ~~thereafter,~~ the State Department of Education shall reimburse each school district in the following school fiscal year a pro rata amount determined by the State Board of Education from appropriations for special education approved by the Legislature and based on allowable excess costs for all special education programs and support services.

(3) Cooperatives of school districts or educational service units shall also be eligible for reimbursement for cooperative programs pursuant to this section if such cooperatives or educational service units have complied with the reporting and approval requirements of section 79-1155 for cooperative programs which were offered the preceding year. The payments

shall be made by the State Department of Education to the school district of residence, cooperative of school districts, or educational service unit each year in a minimum of seven payments between the fifth and twentieth day of each month beginning in December. Additional payments may be made based upon additional valid claims submitted. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The director shall, upon receiving such certification, draw warrants against funds appropriated.

Sec. 44. Section 79-1144, Revised Statutes Supplement, 1998, is amended to read:

79-1144. Funds shall be appropriated by the Legislature to carry out sections ~~79-1141~~ 79-1142 to 79-1144 and 79-1147. Such funds shall be channeled through the State Department of Education. The department is authorized to expend such funds upon proper vouchers approved by the department and warrants issued by the Director of Administrative Services for financial reimbursement to school districts, educational service units, special education cooperatives created by school districts, agencies, and parents or guardians, including (1) reimbursement ~~(a) for ninety percent of the amount expended prior to fiscal year 1995-96 pursuant to section 79-1129 for actual transportation expenses per year for children with disabilities and (b) for the amount expended for fiscal year 1995-96 and each fiscal year thereafter~~ pursuant to section 79-1129 for actual transportation expenses per year for children with disabilities a pro rata amount which shall be determined by the State Board of Education from appropriations for special education approved by the Legislature based on all actual allowable transportation costs, (2) reimbursement for instructional aids and consultative, supervisory, research, and testing services to school districts, and (3) reimbursement for salaries, wages, maintenance, supplies, travel, and other expenses essential to carrying out the provisions for special education programs. Minor building modifications shall not be eligible for state reimbursement as an allowable expense. ~~beginning with the reimbursement provided in fiscal year 1993-94 except for those projects or portions thereof completed prior to August 31, 1992, and paid for by the school district on or before December 31, 1992. Documentation of projects or portions thereof completed during the 1991-92 school year shall be provided to the State Department of Education.~~ Applications for state reimbursement for actual transportation expenses shall be submitted to the department annually on a date and on forms prescribed by the department. Amendments to applications for actual transportation expenses shall be submitted on dates prescribed by the department during the school year in which the original application was made.

Sec. 45. Section 79-1145, Reissue Revised Statutes of Nebraska, is amended to read:

79-1145. ~~For fiscal year 1996-97, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1132, 79-1142, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections in fiscal year 1995-96 multiplied by one plus a rate of two and one-half percent, excluding any deficiency appropriations in fiscal year 1995-96. Beginning in fiscal year 1997-98 and For each fiscal year, thereafter, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, multiplied by one plus a rate of three percent.~~

Sec. 46. Section 79-1148, Revised Statutes Supplement, 1998, is amended to read:

79-1148. The State Department of Education is authorized to set up one or more approved schools or centers for children with disabilities. These schools or centers shall offer residential facilities for such children, which facilities shall be under the control and supervision of the State Department of Education.

Sec. 47. Section 79-1155, Revised Statutes Supplement, 1998, is amended to read:

79-1155. All school boards and boards of education shall report annually on a date prescribed by the State Department of Education to the department on forms provided by the department (1) plans for special education ~~program expansions, revisions, or reductions programs~~ and (2) budget information for special education programs and support services. Cooperatives of school districts or educational service units applying for grants or reimbursement for programs pursuant to section 79-1132, 79-1142, or 79-1144 shall also report unified plans and budget information pursuant to this

section. The plans and budget forms shall conform to guidelines reporting requirements provided in section 79-1156. The State Department of Education shall review and take action to approve, approve with modifications, or disapprove the plans ~~for expansions in~~ and budgets for special education programs of the school district, cooperative of school districts, or educational service unit. Supplementary amendments to any program plans and budgets previously approved by the State Board of Education may be submitted on dates specified by the department during the same school year and shall be subject to the same review and approval as the initial plans and budgets. The State Board of Education shall approve, approve with modifications, or disapprove all supplementary amendments to program plans and budget requests. All final financial reports on special education and support services costs, ~~the actual number of children served, and the disabilities of such children who are verified as having a disability~~ shall be reported to the State Department of Education ~~department~~ by October 31 of each year for the preceding school year on forms prescribed by the State Department of Education ~~department~~. Any program that provides residential care shall show the costs of such care separately from the costs of the education program.

~~If a service agency chooses to exceed the budget approved by the State Department of Education, costs in excess of the approved budget shall not be eligible for reimbursement by the State Department of Education.~~

Sec. 48. Section 79-1156, Revised Statutes Supplement, 1998, is amended to read:

79-1156. The State Department of Education shall coordinate information reporting requirements for special education and support services programs with other educational data reporting requirements of the department to the extent possible. The plans ~~for program expansions, revisions, and reductions~~ and budgets for programs shall contain the information required by the department. ~~The information on special education and support services programs shall include at least the following:~~

- ~~(1) A description of the types of services to be offered and the number of children with disabilities receiving the services;~~
- ~~(2) The service agencies and the respective services offered;~~
- ~~(3) A presentation of all expected expenditures by source of funds;~~
- ~~(4) A detailed description of the methodology to be used by the agency for evaluating the results of the programs and service being provided for each service group. This methodology shall permit program evaluation, including the relative cost and effectiveness of alternative forms and patterns of services;~~
- ~~(5) A description of the procedures used to insure that children with disabilities are placed in appropriate educational programs. Such procedures shall be reviewed for approval by the State Department of Education; and~~
- ~~(6) A sample of the written materials to be used to provide parents with specific information about complaint and appeal rights and procedures.~~

Sec. 49. Section 79-1157, Revised Statutes Supplement, 1998, is amended to read:

79-1157. All special education programs shall be reviewed ~~at least once every three years~~ by the State Department of Education.

To enable the State Department of Education to determine the effectiveness of the programs and services being provided, the department shall conduct a program of continuing evaluations of the different types of programs and services being provided for each of the service groups. In conducting these evaluations, the department shall take into account such factors as numbers and types of children with disabilities, class sizes, qualifications of staff, and other factors which the department deems appropriate. The department shall conduct evaluations of all programs and services and shall conduct these evaluations in such a manner as to enable the department to compare the relative effectiveness of the same or similar programs or services provided in different locations.

Evaluation studies shall be designed to provide the Legislature, the State Department of Education, the school districts, and other service agencies with the following information:

- (1) A detailed description of groups served;
- (2) A detailed description of the kind of programs or services provided and their cost per unit of service as well as the cost of each service; and
- (3) A detailed description of the effectiveness of the programs or services.

Sec. 50. Section 79-1167, Revised Statutes Supplement, 1998, is amended to read:

- 79-1167. (1) Any party to a hearing conducted under sections

79-1162 to 79-1166 aggrieved by the findings, conclusions, or final decision and order of the hearing officer is entitled to judicial review under this section. Any party of record also may seek enforcement of the final decision and order of the hearing officer pursuant to this section.

(2) Proceedings for judicial review shall be instituted by filing a petition in the district court of the county in which the main administrative offices of the school district are located within thirty days after service of the final decision and order on the party seeking such review. All parties of record shall be made parties to the proceedings. The court, in its discretion, may permit other interested parties to intervene.

(3) The filing of a petition for judicial review shall operate to stay the enforcement of the final decision and order of the hearing officer. While judicial proceedings are pending and unless the school district and the parent or guardian otherwise agree, the child with a disability shall remain in his or her current educational placement or if applying for initial admission to a public school such child shall, with the consent of the parent or guardian, be placed in the public school program until all such proceedings have been completed. ~~If the health or safety of the child or of other persons would be endangered by delaying a change in assignment, the school district may make such change without prejudice to the rights of any party.~~

(4) Within fifteen days after receiving notification that a petition for judicial review has been filed or if good cause is shown within such further time as the court may allow, the State Department of Education shall prepare and transmit to the court a certified transcript of the proceedings before the hearing officer.

(5) Judicial review shall be conducted by the court without a jury. The court shall receive the records of the administrative proceedings, hear additional evidence at the request of a party, base its decision on the preponderance of the evidence, and grant such relief as the court determines is appropriate.

(6) An aggrieved party may secure a review of any final judgment of the district court under this section by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals in civil cases and shall be heard de novo on the record.

(7) When no petition for judicial review or other civil action is filed within thirty days after service of the final decision and order on all of the parties, the hearing officer's final decision and order shall become effective. Proceedings for enforcement of a hearing officer's final decision and order shall be instituted by filing a petition for appropriate relief in the district court of the county in which the main administrative offices of the school district are located within one year after the date of the hearing officer's final decision and order.

Sec. 51. Section 79-1185, Revised Statutes Supplement, 1998, is amended to read:

~~79-1185.~~ ~~For purposes of section 79-1186, support~~ Support services means preventive services for those students not identified or verified as children with disabilities pursuant to sections 79-1118.01 and 79-1137 to 79-1139 but demonstrating a need for specially designed assistance in order to benefit from the school district's general education curriculum and to avoid the need for potentially expensive special education placement and services.

Sec. 52. Section 79-1188, Reissue Revised Statutes of Nebraska, is amended to read:

79-1188. The State Board of Education, with the assistance of the State Department of Education, shall provide a process for the waiver of rules and regulations adopted and promulgated under Chapter 79 as such rules and regulations relate to special education programs and support services related to special education. Such waiver shall not apply to any requirements subject to federal laws or federal rules and regulations. Any entity subject to state rules and regulations for special education may apply for a waiver of such rules and regulations. ~~each year until August 31, 1998.~~ To the extent practicable, the State Board of Education shall grant or deny a waiver request at the next regularly scheduled meeting of the board following receipt of the written waiver request. The waiver process shall be studied for effectiveness by the State Board of Education. ~~7 and the board shall provide a report to the Education Committee of the Legislature in January of 1998.~~

The board may grant a waiver to the rules and regulations if the process set out by the department is followed.

Sec. 53. Section 79-11,109, Revised Statutes Supplement, 1998, 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 blind and visually impaired 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 blind and visually impaired known as the Nebraska Center for the Education of Children who are Blind or Visually Impaired, formerly the Nebraska School for the Visually Handicapped. The department may contract with a school district, an educational service unit, or a public institution of city, county, or state government to operate the center. The department may use, lease, or otherwise contract for the use of property and facilities formerly controlled by the Nebraska School for the Visually Handicapped for services of the center.

Sec. 54. Section 79-11,110, Revised Statutes Supplement, 1998, is amended to read:

79-11,110. The purpose of the Nebraska ~~School for the Visually Handicapped~~ Center for the Education of Children who are Blind or Visually Impaired is to provide ~~general and~~ special education services for persons not to exceed twenty-one years of age ~~for whose benefit such school was created, until completion of a general or special program who are blind or visually impaired to such an extent that they cannot receive services in the public schools of this state.~~ The ~~school center~~ shall be the state resource center for all ~~educational~~ special education programs for children who are blind ~~and~~ or visually impaired in Nebraska and shall provide services such as ~~inservice training of teachers, itinerant teaching, counseling services, and the loan of equipment, books, and learning media instructional materials and technology support, assessment and evaluation services, teacher training and professional development, summer and weekend programs, residential services, center-based programs, public school combination programs, local public school support, and consultation services~~ to school districts and educational service units.

Sec. 55. Section 79-1601, Reissue Revised Statutes of Nebraska, is amended to read:

79-1601. (1) Except as provided in subsections (2) through ~~(5)~~ (6) of this section, all private, denominational, and parochial schools in the State of Nebraska and all teachers employed or giving instruction in such schools shall be subject to and governed by the provisions of the general school laws of the state so far as the same apply to grades, qualifications, and certification of teachers and promotion of pupils. All private, denominational, and parochial schools shall have adequate equipment and supplies, shall be graded the same, and shall have courses of study for each grade conducted in such schools substantially the same as those given in the public schools where the children attending would attend in the absence of such private, denominational, or parochial schools.

(2) All private, denominational, or parochial schools shall either comply with the accreditation or approval requirements prescribed in section 79-318 or, for those schools which elect not to meet accreditation or approval requirements, the requirements prescribed in section 79-318 and subsections (2) through ~~(5)~~ (6) of this section. Standards and procedures for approval and accreditation shall be based upon the program of studies, guidance services, the number and preparation of teachers in relation to the curriculum and enrollment, instructional materials and equipment, science facilities and equipment, library facilities and materials, and health and safety factors in buildings and grounds. Rules and regulations which govern standards and procedures for private, denominational, and parochial schools which elect, pursuant to the procedures prescribed in subsections (2) through ~~(5)~~ (6) of this section, not to meet state accreditation or approval requirements shall be based upon evidence that such schools offer a program of instruction leading to the acquisition of basic skills in the language arts, mathematics, science, social studies, and health. Such rules and regulations may include a provision for the visitation of such schools and regular achievement testing of students attending such schools in order to insure that such schools are offering instruction in the basic skills listed in this subsection. Any arrangements for visitation or testing shall be made through a parent representative of each such school. The results of such testing may be used as evidence that such schools are offering instruction in such basic skills but shall not be used to measure, compare, or evaluate the competency of students at such schools.

(3) The provisions of subsections (3) through ~~(5)~~ (6) of this section shall apply to any private, denominational, or parochial school in the State of Nebraska which elects not to meet state accreditation or approval requirements. Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education signed by the parents or legal guardians of all children attending such private, denominational, or parochial school, stating that (a) the requirements for approval and accreditation required by law and the rules and regulations adopted and

promulgated by the State Board of Education violate sincerely held religious beliefs of the parents or legal guardians, (b) an authorized representative of such parents or legal guardians will at least annually submit to the Commissioner of Education the information necessary to prove that the requirements of subdivisions ~~(i) through (iii)~~ of this subsection (4)(a) through (c) of this section are satisfied, (c) the school offers the courses of instruction required by subsections (2), ~~and (3), and (4)~~ of this section, and (d) the parents or legal guardians have satisfied themselves that individuals monitoring instruction at such school are qualified to monitor instruction in the basic skills as required by subsections (2), ~~and (3), and (4)~~ of this section and that such individuals have demonstrated an alternative competency to monitor instruction or supervise children pursuant to subsections (3) through ~~(5)~~ (6) of this section.

~~(4)~~ Each such private, denominational, or parochial school shall ~~(i)~~ (a) meet minimum requirements relating to health, fire, and safety standards prescribed by state law and the rules and regulations of the State Fire Marshal, ~~(ii)~~ (b) report attendance pursuant to section 79-201, and ~~(iii)~~ (c) maintain a sequential program of instruction designed to lead to basic skills in the language arts, mathematics, science, social studies, and health. The State Board of Education shall establish procedures for receiving information and reports required by subsections (3) through ~~(5)~~ (6) of this section from authorized parent representatives who may act as agents for parents or legal guardians of students attending such school and for individuals monitoring instruction in the basic skills required by ~~this subsection~~ subsections (2), (3), and (4) of this section.

~~(4)~~ (5) Individuals employed by schools which elect not to meet state accreditation or approval requirements shall not be required to meet the certification requirements prescribed in sections 79-801 to 79-816 but shall either (a) take appropriate subject matter components of a nationally recognized teacher competency examination designated by the State Board of Education as (i) including the appropriate subject matter areas for purposes of satisfying the requirements of ~~subsection~~ subsections (3) and (4) of this section and (ii) a nationally recognized examination or (b) offer evidence of competence to provide instruction in the basic skills required by ~~subsection~~ subsections (3) and (4) of this section pursuant to informal methods of evaluation which shall be developed by the State Board of Education. Such evidence may include educational transcripts, diplomas, and other information regarding the formal educational background of such individuals. Information concerning test results, transcripts, diplomas, and other evidence of formal education may be transmitted to the State Department of Education by authorized representatives of parents or legal guardians. The results of such testing or alternative evaluation of individuals who monitor the instruction of students attending such schools may be used as evidence of whether or not such schools are offering adequate instruction in the basic skills prescribed in subsections (2), ~~and (3), and (4)~~ of this section but shall not be used to prohibit any such school from employing such individuals. Failure of a monitor, who is tested for the purpose of satisfying in whole or in part the requirements of subsections (3) through ~~(5)~~ (6) of this section, to attain a score equal to or exceeding both the state or national average score or rating on appropriate subject matter components of recognized teacher competency examinations designated by the State Board of Education may be by itself sufficient proof that such school does not offer adequate instruction in the basic skills prescribed in ~~subsection~~ subsections (3) and (4) of this section.

~~(5)~~ (6) The demonstration of competency to monitor instruction in a private, denominational, or parochial school which has elected not to meet state accreditation or approval requirements shall in no way constitute or be construed to grant a license, permit, or certificate to teach in the State of Nebraska. Any school which elects not to meet state accreditation or approval requirements and does not meet the requirements of subsections (2) through ~~(5)~~ (6) of this section shall not be deemed a school for purposes of section 79-201, and the parents or legal guardians of any children attending such school shall be subject to prosecution pursuant to such section or any statutes relating to habitual truancy.

Sec. 56. Section 79-1602, Reissue Revised Statutes of Nebraska, is amended to read:

79-1602. Any person who, as an authorized representative of a parent or legal guardian, transmits information required by subsections (3) through ~~(5)~~ (6) of section 79-1601 knowing such information to be false shall be guilty of a Class IIIA misdemeanor.

Any person who knowingly gives false information to an authorized representative of a parent or legal guardian, knowing that such information is intended to be transmitted to the State Board of Education, shall be guilty of

a Class IIIA misdemeanor.

Sec. 57. Section 81-1108.22, Revised Statutes Supplement, 1998, is amended to read:

81-1108.22. (1) The division shall have the responsibility of providing office space in leased and state-owned buildings in the proximity of the State Capitol and in other locations.

(2) When any board, agency, commission, or department of the state government not otherwise specifically authorized by law desires to use funds available for the purpose of renting office space outside of the State Capitol, it shall submit a request to the Director of Administrative Services accompanied by a certificate from the Committee on Building Maintenance that there is no state-owned property which is adequate or which through cost-effective renovation, as determined by the division, could be made adequate to meet the needs of the board, agency, commission, or department. If the director approves the lease, the terms and location shall be approved by the director and the administrator in writing and the leases shall be entered into and administered by the administrator on behalf of the board, agency, commission, or department. A copy of all such lease contracts shall be kept on file by the state building division and shall be open to inspection by the Legislature and the public during normal business hours.

(3) The administrator shall develop a system of charges to cover basic rental, maintenance, renovations, and operation of such leased and owned properties. The charges to state agencies, boards, commissions, or departments of state government shall be paid from funds available for the purpose of renting space on a regular basis and placed, as applicable, in the State Building Revolving Fund, which fund is hereby created, and the State Building Renewal Assessment Fund. The administrator shall make payments for basic rentals, renovations, and maintenance and operational costs of all leased and owned buildings from the State Building Revolving Fund.

(4) The charges for such leased and owned properties shall only be adjusted by the administrator on July 1. Prior to any adjustment in the system of charges, the Department of Administrative Services, on or before December 1 of the year preceding the effective date of such adjustment, shall provide written notification to the Committee on Building Maintenance, the Clerk of the Legislature, and the Legislative Fiscal Analyst of the proposed adjustment to the system of charges.

(5) Commencing on April 18, 1992, all leases of real property entered into by any state agency, board, commission, or department shall be subject to this section. Leases held by a state agency, board, commission, or department on such date shall be valid until the lease contract is terminated or is subject to renewal. The division shall monitor all such leases and determine when the lease is subject to renewal. Once the determination is made, the division shall cancel the lease as of the renewal date and shall treat the need of the agency, board, commission, or department as an original request for space and subject to this section. This subsection shall not apply to (a) state-owned facilities to be rented to state agencies or other parties by the University of Nebraska, the Nebraska state colleges, the Department of Aeronautics, the Department of Roads, and the Board of Educational Lands and Funds, (b) facilities to be leased for use by the University of Nebraska, the Nebraska state colleges, and the Board of Educational Lands and Funds, (c) facilities to be leased for nonoffice use by the Department of Roads, or (d) facilities controlled by the ~~Nebraska School for the Deaf or State Department of Education, which were formerly controlled by the~~ Nebraska School for the Visually Handicapped, to be rented to state agencies or other parties by the ~~school~~ department.

Sec. 58. Section 85-607, Revised Statutes Supplement, 1998, is amended to read:

85-607. No publicly funded college or university in this state shall prohibit the admission of any child educated in any school which elects to meet the requirements of subsections (2) through ~~(5)~~ (6) of section 79-1601 if the child is qualified for admission as shown by testing results.

Sec. 59. Sections 17, 59, 60, and 63 of this act become operative on their effective date. The other sections of this act become operative three calendar months after the adjournment of this legislative session.

Sec. 60. Original section 79-758, Revised Statutes Supplement, 1998, is repealed.

Sec. 61. Original sections 43-2505, 48-304, 79-318, 79-492, 79-556, 79-557, 79-558, 79-602, 79-803, 79-1063, 79-1145, 79-1188, 79-1601, and 79-1602, Reissue Revised Statutes of Nebraska, and sections 13-509, 72-801, 79-101, 79-472, 79-479, 79-4,108, 79-528, 79-540, 79-1003, 79-1007.02, 79-1009, 79-1016, 79-1022, 79-1024, 79-1026, 79-1027, 79-1027.01, 79-1029, 79-1072.01, 79-1083.02, 79-1083.03, 79-1090, 79-10,110, 79-10,124, 79-1110,

79-1113, 79-1118.01, 79-1128, 79-1135, 79-1138, 79-1140, 79-1142, 79-1144, 79-1148, 79-1155, 79-1156, 79-1157, 79-1167, 79-1185, 79-11,109, 79-11,110, 81-1108.22, and 85-607, Revised Statutes Supplement, 1998, are repealed.

Sec. 62. The following sections are outright repealed: Sections 79-1141, 79-1186, 79-11,112, 79-11,116, 79-11,117, 79-11,118, 79-11,120, and 90-118, Reissue Revised Statutes of Nebraska, and sections 79-1134, 79-1198, 79-11,111, 79-11,113, 79-11,114, 79-11,115, and 79-11,119, Revised Statutes Supplement, 1998.

Sec. 63. Since an emergency exists, this act takes effect when passed and approved according to law.