

## LEGISLATIVE BILL 1208

Approved by the Governor April 11, 2006

Introduced by Raikes, 25; Baker, 44; D. Pederson, 42; Stuhr, 24; Erdman, 47;  
Price, 26

AN ACT relating to education; to amend sections 79-704, 79-761, 79-1018.01, 79-1204, 79-1223, 79-1233, 79-1241.01, 79-1241.02, 79-1243, 79-1302, 79-1303, 79-1304, 79-1319, and 79-1325, Reissue Revised Statutes of Nebraska, sections 9-812, 81-1634, 86-515, and 86-520, Revised Statutes Cumulative Supplement, 2004, and sections 79-1003, 79-1007.02, 79-1028, and 86-516, Revised Statutes Supplement, 2005; to harmonize language relating to state lottery proceeds with the 2004 constitutional amendment to Article III, section 24; to change provisions relating to distribution of the Education Innovation Fund, course offerings, mentor teacher programs, allowances and allowable growth rates under the Tax Equity and Educational Opportunities Support Act, telecommunications facilities, educational service units, and educational technology; to create a council; to define terms; to provide for and eliminate distance education programs and related incentives; to eliminate a consortium, a task force, technology programs, and funds; to harmonize provisions; to repeal the original sections; and to outright repeal sections 79-1301, 79-1305, 79-1306, 79-1307, 79-1310, and 79-1328, Reissue Revised Statutes of Nebraska, and sections 79-1329 and 79-1330, Revised Statutes Supplement, 2005.

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

Section 1. Section 9-812, Revised Statutes Cumulative Supplement, 2004, is amended to read:

9-812 (1) All money received from the operation of lottery games conducted pursuant to the State Lottery Act in Nebraska shall be credited to the State Lottery Operation Trust Fund, which fund is hereby created. All payments of ~~expenses of the operation of~~ the costs of establishing and maintaining the lottery games shall be made from the State Lottery Operation Cash Fund. In accordance with legislative appropriations, money for payments for expenses of the division shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Operation Cash Fund, which fund is hereby created. All money necessary for the payment of lottery prizes shall be transferred from the State Lottery Operation Trust Fund to the State Lottery Prize Trust Fund, which fund is hereby created. The amount used for the payment of lottery prizes shall not be less than forty percent of the dollar amount of the lottery tickets which have been sold. ~~The State Treasurer shall transfer five million dollars from the State Lottery Operation Trust Fund to the General Fund within fifteen days after July 1, 2004. Until October 1, 2003, at least twenty-five percent and beginning~~

(2)(a) Beginning October 1, 2003, and until January 1, 2008, a portion of the dollar amount of the lottery tickets which have been sold on an annualized basis shall be transferred from the State Lottery Operation Trust Fund to the Education Innovation Fund, the Nebraska Scholarship Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund, except that the dollar amount transferred shall not be less than the dollar amount transferred to the funds in fiscal year 2002-03.

(b) On and after January 1, 2008, at least twenty-five percent of the dollar amount of the lottery tickets which have been sold on an annualized basis shall be transferred from the State Lottery Operation Trust Fund to the Education Innovation Fund, the Nebraska Scholarship Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund.

(3) Of the money available to be transferred to the Education Innovation Fund, the Nebraska Scholarship Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund:

(a) The ~~7~~ the first five hundred thousand dollars shall be transferred to the Compulsive Gamblers Assistance Fund to be used as provided in section 71-817;

(b) Nineteen ~~Twenty-four~~ and three-fourths percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Education Innovation Fund; ~~—~~

(c) Twenty-four and three-fourths percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska Scholarship Fund; ~~Forty-nine~~

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

(e) Ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska State Fair Board if the most populous city within the county in which the fair is located provides matching funds equivalent to ten percent of the funds available for transfer. Such matching funds may be obtained from the city and any other private or public entity, except that no portion of such matching funds shall be provided by the state. If the Nebraska State Fair ceases operations, ten percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the General Fund; and

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

~~(2) (4) (a) The Education Innovation Fund is hereby created. At least seventy-five percent of the lottery proceeds allocated to the Education Innovation Fund shall be available for disbursement. For each fiscal year except fiscal years 2003-04, 2004-05, 2005-06, and 2006-07, the Education Innovation Fund shall be allocated in the following manner: Up to twenty percent to fund the mentor teacher program pursuant to the Quality Education Accountability Act; up to forty percent to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act; and up to forty percent of the fund shall be allocated by the Governor. For fiscal years 2003-04 and 2004-05, the Education Innovation Fund shall be allocated to the General Fund after operating expenses for the Excellence in Education Council are deducted. For fiscal years 2005-06 and 2006-07~~

(b) For fiscal year 2005-06, the Education Innovation Fund shall be allocated as follows: The first one million dollars each fiscal year shall be transferred to the School District Reorganization Fund, and the remaining amount shall be allocated to the General Fund after operating expenses for the Excellence in Education Council are deducted.

(c) For fiscal year 2006-07, the Education Innovation Fund shall be allocated as follows: The first two hundred fifty thousand dollars shall be transferred to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act, the next one million dollars shall be transferred to the School District Reorganization Fund, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 22 and 23 of this act.

(d) For fiscal year 2007-08, the Education Innovation Fund shall be allocated as follows: The first five hundred thousand dollars shall be transferred to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 22 and 23 of this act.

(e) For fiscal year 2008-09, the Education Innovation Fund shall be allocated as follows: The first seven hundred fifty thousand dollars shall be transferred to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 22 and 23 of this act.

(f) For fiscal years 2009-10 through 2015-16, the Education Innovation Fund shall be allocated as follows: The first one million dollars shall be transferred to the Attracting Excellence to Teaching Program Cash Fund to fund the Attracting Excellence to Teaching Program Act, and the amount remaining in the Education Innovation Fund shall be allocated, after administrative expenses, for distance education equipment and incentives pursuant to sections 22 and 23 of this act.

(g) For fiscal year 2016-17 and each fiscal year thereafter, the

Education Innovation Fund shall be allocated, after administrative expenses, for education purposes as provided by the Legislature.

At the direction of the budget administrator of the Department of Administrative Services, the State Treasurer shall transfer available unobligated balances existing in the Education Innovation Fund to the General Fund on or before July 15, 2005, in such amounts as determined by the budget administrator, to include: Any unobligated money remaining as of June 30, 2004, and June 30, 2005, in the Education Innovation Fund, appropriated for the Excellence in Education Council; investment income credited to the fund; and unobligated grant fund money returned to the state for credit to the Education Innovation Fund.

Allocations by the Governor shall be through incentive grants to encourage the development of strategic school improvement plans by school districts for accomplishing high performance learning and to encourage schools to establish innovations in programs or practices that result in restructuring of school organization, school management, and instructional programs which bring about improvement in the quality of education. Such incentive grants allocated by the Governor are intended to provide selected school districts, teachers or groups of teachers, nonprofit educational organizations, educational service units, or cooperatives funding for the allowable costs of implementing pilot projects and model programs.

From the funds allocated by the Governor, minigrants shall be available to school districts to support the development of strategic school improvement plans which shall include statements of purposes and goals for the districts. The plans shall also include the specific statements of improvement or strategic initiatives designed to improve quality learning for every student.

In addition to the minigrants granted for the development of strategic school improvement plans, school districts with annual budget expenditures of three hundred fifty thousand dollars or less are eligible for minigrants from the funds allocated by the Governor for the purposes allowed in subdivisions (2)(a) through (q) of this section. The amount of this type of minigrant shall not exceed five thousand dollars. The school district shall present a curriculum support plan with its application for the grant. The curriculum support plan must show how the district is working to achieve one or more of the allowed purposes and how the grant will be used to directly advance the plan to achieve one or more of these purposes. The plan must be signed by the school administrator and a school board representative. The application for the grant shall be brief. The Excellence in Education Council shall select the recipients of this type of minigrant and shall administer such minigrants.

From the funds allocated by the Governor, major competitive grants shall be available to support innovative programs which are directly related to the strategic school improvement plans. The development of a strategic school improvement plan by a school district shall be required before a grant is awarded. Annual reports shall be made by program recipients documenting the effectiveness of the program in improving the quality of education as designed in the strategic school improvement plans. Special consideration shall be given to plans which contain public or private matching funds and cooperative agreements, including agreements for in-kind services. Purposes for which such major competitive grants would be offered shall include:

(a) Professional staff development programs to provide funds for teacher and administrator training and continuing education to upgrade teaching and administrative skills;

(b) The development of strategic school improvement plans by school districts;

(c) Educational technology assistance to public schools for the purchase and operation of computers, telecommunications equipment and services, and other forms of technological innovation which may enhance classroom teaching, instructional management, and districtwide administration. Telecommunications equipment, services, and forms of technical innovation shall be approved only after review by the technical panel created in section 86-521;

(d) An educational accountability program to develop an educational indicators system to measure the performance and outcomes of public schools and to ensure efficiency in operations;

(e) Alternative programs for students, including underrepresented groups, at-risk students, and dropouts;

(f) Programs that demonstrate improvement of student performance against valid national and international achievement standards;

(g) Early childhood and parent education which emphasizes child development;

- ~~(h) Programs using decisionmaking models that increase involvement of parents, teachers, and students in school management;~~
- ~~(i) Increased involvement of the community in order to achieve increased confidence in and satisfaction with its schools;~~
- ~~(j) Development of magnet or model programs designed to facilitate desegregation;~~
- ~~(k) Programs that address family and social issues impairing the learning productivity of students;~~
- ~~(l) Programs enhancing critical and higher-order thinking capabilities;~~
- ~~(m) Programs which produce the quality of education necessary to guarantee a competitive work force;~~
- ~~(n) Programs designed to increase productivity of staff and students through innovative use of time;~~
- ~~(o) Training programs designed to benefit teachers at all levels of education by increasing their ability to work with educational technology in the classroom;~~
- ~~(p) Approved accelerated or differentiated curriculum programs under sections 79-1106 to 79-1108.03; and~~
- ~~(q) Programs for children from birth to age twenty-one years with disabilities receiving special education under the Special Education Act and children from birth to age twenty-one years needing support services as defined in section 79-1125.01, which programs demonstrate improved outcomes for children from birth to age twenty-one years through emphasis on prevention and collaborative planning.~~

The Governor shall establish the Excellence in Education Council. The Governor shall appoint eleven members to the council including representatives of educational organizations, postsecondary educational institutions, the business community, and the general public, members of school boards and parent education associations, school administrators, and at least four teachers who are engaged in classroom teaching. The State Department of Education shall provide staff support for the council to administer the Education Innovation Fund, including the Quality Education Accountability Act. The council shall have the following powers and duties:

- ~~(i) In consultation with the department, develop and publish criteria for the awarding of incentive grants allocated by the Governor for programs pursuant to this subsection, including minigrants;~~
- ~~(ii) Provide recommendations to the Governor regarding the selection of projects to be funded and the distribution and duration of project funding;~~
- ~~(iii) Establish standards, formats, procedures, and timelines for the successful implementation of approved programs funded by incentive grants allocated by the Governor from the Education Innovation Fund;~~
- ~~(iv) Assist school districts in determining the effectiveness of the innovations in programs and practices and measure the subsequent degree of improvement in the quality of education;~~
- ~~(v) Consider the reasonable distribution of funds across the state and all classes of school districts;~~
- ~~(vi) Carry out its duties pursuant to the Quality Education Accountability Act; and~~
- ~~(vii) Provide annual reports to the Governor concerning programs funded by the fund. Each report shall include the number of applicants and approved applicants, an overview of the various programs, objectives, and anticipated outcomes, and detailed reports of the cost of each program.~~

To assist the council in carrying out its duties, the State Board of Education shall, in consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of programs funded from the Education Innovation Fund, including the Quality Education Accountability Act.

~~(3) Recipients of incentive grants allocated by the Governor from the Education Innovation Fund shall be required to provide, upon request, such data relating to the funded programs and initiatives as the Governor deems necessary.~~

~~(4) (5) Any money in the State Lottery Operation Trust Fund, the State Lottery Operation Cash Fund, the State Lottery Prize Trust Fund, or the Education Innovation Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.~~

~~(5) (6) Unclaimed prize money on a winning lottery ticket shall be retained for a period of time prescribed by rules and regulations. If no claim is made within such period, the prize money shall be used at the discretion of the Tax Commissioner for any of the purposes prescribed in this section.~~

Sec. 2. Section 79-704, Reissue Revised Statutes of Nebraska, is

amended to read:

79-704 ~~Any~~ (1) Except as otherwise provided in subsection (2) of this section, any school board or board of education of a school district or any governing authority of a private school may establish alternating biennial secondary course offerings, not to exceed one course in each of four subject fields as designated by such board or governing authority, as part of the total instructional units provided each school term for the purpose of meeting minimum annual criteria for accreditation under sections 79-318 and 79-703. Reporting of biennial course offerings which are to receive annual instructional unit credit in meeting accreditation standards shall be on forms prescribed by the State Department of Education.

(2) For school year 2009-10 and each school year thereafter, a school board of a school district shall not establish an alternating biennial secondary course offering in any subject area for which the State Board of Education has adopted content standards pursuant to section 79-760.01.

Sec. 3. Section 79-761, Reissue Revised Statutes of Nebraska, is amended to read:

79-761 The State Board of Education shall develop guidelines for mentor teacher programs in local systems in order to provide ongoing support for individuals entering the teaching profession. ~~Funding for mentor teacher programs shall be provided to local systems which provide each first-year teacher in the local system with a mentor. The mentor teacher programs shall be funded by the Education Innovation Fund pursuant to subsection (2) of section 9-812 and shall identify criteria for selecting excellent, experienced, and qualified teachers to be participants. The state board shall report to the Legislature on or before December 1, 1998, on its progress in implementing this section.~~

Sec. 4. Section 79-1003, Revised Statutes Supplement, 2005, 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 ~~(23)~~ (24) of this section minus (a) for school fiscal years before school fiscal year 2007-08, the transportation allowance and minus the special receipts allowance and (b) for school fiscal year 2007-08 and each school fiscal year thereafter, the sum of the transportation, special receipts, and distance education and telecommunications allowances;

(2) Adjusted valuation means the assessed valuation of taxable property of each 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 or 79-1005.02 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 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 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, and 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) Converted contract means an expired contract that was in effect for at least fifteen years for the education of students in a

nonresident district in exchange for tuition from the resident district when the expiration of such contract results in the nonresident district educating students who would have been covered by the contract if the contract were still in effect as option students pursuant to the enrollment option program established in section 79-234;

(11) Converted contract option students means students who will be option students pursuant to the enrollment option program established in section 79-234 for the school fiscal year for which aid is being calculated and who would have been covered by a converted contract if the contract were still in effect and such school fiscal year is the first school fiscal year for which such contract is not in effect;

(12) Department means the State Department of Education;

(13) Distance education and telecommunications allowance means, for state aid calculated for school fiscal year 2007-08 and each school fiscal year thereafter, eighty-five percent of the difference of the costs for (a) telecommunications services, (b) access to data transmission networks that transmit data to and from the school district, and (c) the transmission of data on such networks paid by the school districts in the local system as reported on the annual financial report for the most recently available complete data year minus the receipts from the federal Universal Service Fund pursuant to section 254 of the Telecommunications Act of 1996, 47 U.S.C. 254, as such section existed on January 1, 2006, for the school districts in the local system as reported on the annual financial report for the most recently available complete data year;

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

~~(14)~~ (15) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

~~(15)~~ (16) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1008.01 to 79-1022 and 79-1022.02;

~~(16)~~ (17) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

~~(17)~~ (18) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

~~(18)~~ (19) 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, plus qualified early childhood education fall membership plus 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 plus qualified early childhood education average daily membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid was paid;

~~(19)~~ (20) 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;

~~(20)~~ (21) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

~~(21)~~ (22) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023, the 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;

~~(22)~~ (23) General fund expenditures means all expenditures from the general fund;

~~(23)~~ (24) 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, retirement incentive plans, staff development assistance, and transfers from other funds into the general fund for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

~~(24)~~ (25) High school district means a school district providing instruction in at least grades nine through twelve;

~~(25)~~ (26) 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;

~~(26)~~ (27) 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;

~~(27)~~ (28) 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;

~~(28)~~ (29) Local system means: (a) For school fiscal years prior to 2006-07, 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; (b) for school fiscal year 2006-07, a Class VI district and the Class I districts or portions of Class I district that will be merged with the Class VI district to form a Class II or III district on June 15, 2006, pursuant to section 79-4,113 or 79-4,114 or a Class II, III, IV, or V district and any Class I districts or portions of Class I districts that will be merged with the Class II, III, IV, or V district on June 15, 2006, pursuant to section 79-4,113 or 79-4,114; and (c) for school fiscal year 2007-08 and each school fiscal year thereafter, a Class II, III, IV, or V district. 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;

~~(29)~~ (30) 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;

~~(30)~~ (31) 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;

~~(31)~~ (32) Qualified early childhood education average daily membership means the product of the average daily membership for school fiscal year 2006-07 and each school fiscal year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant, multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two;

~~(32)~~ (33) Qualified early childhood education fall membership means the product of membership on the last Friday in September 2006 and each year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant, multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two;

~~(33)~~ (34) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

~~(34)~~ (35) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

~~(35)~~ (36) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

~~(36)~~ (37) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

~~(37)~~ (38) 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. The state board shall approve a listing of grants that qualify as special grant funds;

~~(38)~~ (39) Special 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;

~~(39)~~ (40) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

~~(40)~~ (41) State board means the State Board of Education;

~~(41)~~ (42) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

~~(42)~~ (43) Temporary aid adjustment factor means (a) for school fiscal years before school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, the local system's special receipts allowance, and 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 and (b) for school fiscal year 2007-08 and each school fiscal year thereafter, one and one-fourth percent of the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and 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;

~~(43)~~ (44) Transportation allowance means the lesser of (a) each local system's general fund expenditures for regular route transportation and in lieu of transportation expenditures pursuant to section 79-611 in the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, but not including special education transportation expenditures or other expenditures previously excluded from general fund operating expenditures, or (b) the number of miles traveled in the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid by vehicles owned, leased, or contracted by the district or the districts in the 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;

~~(44)~~ (45) Tuition receipts from converted contracts means tuition receipts received by a district from another district in the most recently available complete data year pursuant to a converted contract prior to the expiration of the contract; and

~~(45)~~ (46) 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. 5. Section 79-1007.02, Revised Statutes Supplement, 2005, 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 second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, 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 each county in which 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 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 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 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 each high school attendance center and the next closest high school attendance center on paved roads;

(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 local system includes an area equal to ninety-five percent or more of 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) (a) 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 difference between the total adjusted formula students for all local systems in the cost grouping minus (i) the adjusted formula students attributed to early childhood education programs approved by the department pursuant to section 79-1103 for the first two school fiscal years for which students attributed to early childhood education programs approved by the department pursuant to section 79-1103 are being included in the calculation of state aid for the local system and (ii) for the first two school fiscal years immediately following the school fiscal year in which a district in the local system received an expansion grant pursuant to section 79-1103, the difference between the adjusted formula students attributed to early childhood education programs approved by the department pursuant to section 79-1103 for the school fiscal year immediately following the school fiscal year in which a district in the local system received an expansion grant minus the adjusted formula students attributed to early childhood education programs approved by the department pursuant to section 79-1103 for the school fiscal year in which a district in the local system received an expansion grant. For the calculation of state aid for school fiscal year 1999-00 and for each school fiscal year thereafter, the average formula cost per student in each cost grouping shall not be recalculated for the final calculation of state aid pursuant to section 79-1065. 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.

(b) The cost growth factor for each cost grouping is equal to the sum of: (i) One; plus (ii) 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 sum of the average daily membership plus tuitioned students attributable to the cost grouping for the most recently available complete data year divided by the sum of the average daily membership plus tuitioned students attributable to the cost grouping for the most recently available complete data year, except that the ratio shall not be less than zero; plus (iii) the basic allowable growth rate pursuant to section 79-1025 for the school fiscal year in which the aid is to be distributed; plus (iv) 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 (v) 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 for the school fiscal year immediately preceding the school fiscal year when aid is to be distributed; plus (vi) 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;

(3) For ~~all school fiscal years except school fiscal years 2002-03 through 2007-08~~ year 2008-09 and each school fiscal year thereafter, each local system's formula need will be equal to the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance plus the local system's special 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; and

~~(4)~~ (4)(a) For school fiscal years 2002-03 through ~~2007-08~~ 2006-07, each local system's formula need shall be calculated by subtracting the temporary aid adjustment factor from the sum of the local system's transportation allowance, the local system's special receipts allowance, and 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.

(b) For school fiscal year 2007-08 and each school fiscal year thereafter, each local system's formula need shall be calculated by subtracting the temporary aid adjustment factor from the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and 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. 6. Section 79-1018.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1018.01 Local system formula resources include other actual receipts available for the funding of general fund operating expenditures as determined by the department for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, except that receipts from the Community Improvements Cash Fund, receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act, and, beginning with the calculation of state aid to be distributed in school fiscal year 2004-05, tuition receipts from converted contracts shall not be included. Other actual receipts include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Tuition receipts from individuals, other districts, or any other source except these receipts derived from adult education, and except, beginning with the calculation of state aid to be distributed in school fiscal year 2004-05, tuition receipts from converted contracts, and receipts from educational entities as defined in section 18 of this act for providing distance education courses through the Distance Education Council to such educational entities;
- (4) Transportation receipts;
- (5) Interest on investments;
- (6) Other miscellaneous noncategorical local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (7) Special education receipts, excluding grant funds received pursuant to section 9-812;
- (8) Special education receipts and non-special education receipts from the state for wards of the court and wards of the state;
- (9) All receipts from the temporary school fund. Beginning with the calculation of aid for school fiscal year 2002-03 and each school fiscal year thereafter, receipts from the temporary school fund shall only include receipts pursuant to section 79-1035 and the receipt of funds pursuant to section 79-1036 for property leased for a public purpose as set forth in subdivision (1)(a) of section 77-202;
- (10) Motor vehicle tax receipts received on or after January 1, 1998;

- (11) Pro rata motor vehicle license fee receipts;
- (12) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;
- (13) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;
- (14) All other noncategorical federal receipts;
- (15) All receipts pursuant to the enrollment option program under sections 79-232 to 79-246;
- (16) Receipts under the federal Medicare Catastrophic Coverage Act of 1988, as such act existed on May 8, 2001, as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the local system would have otherwise received pursuant to the Special Education Act; and
- (17) Receipts for accelerated or differentiated curriculum programs pursuant to sections 79-1106 to 79-1108.03.

Sec. 7. Section 79-1028, Revised Statutes Supplement 2005, is amended to read:

79-1028 (1) A Class II, III, IV, V, or VI school district may exceed the local system's applicable allowable growth rate for (a) expenditures in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity or joint public agency, (b) expenditures to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (c) expenditures to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district, (d) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment, or (e) expenditures to pay for lease-purchase contracts approved on or after July 1, 1997, and before July 1, 1998, to the extent the lease payments were not budgeted expenditures for fiscal year 1997-98.

(2) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The department shall approve, deny, or modify the projected increases.

Average daily membership of district	Projected increase of formula students by percentage
0 - 50	10
50.01 - 250	5
250.01 - 1,000	3
1,000.01 and over	1

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1, the department shall make available to districts which have been allowed additional growth pursuant to this subsection the necessary document to recalculate the actual formula students of such district. Such document shall be filed with the department under subsection (1) of section 79-1024.

(3) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if construction, expansion, or alteration of district buildings will cause an increase in building

operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a Class II, III, IV, V, or VI district to exceed the local system's applicable allowable growth rate by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall notify the district on or before July 1 of the recovery of the additional growth pursuant to this subsection.

(4) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the department that it will exceed its applicable allowable growth rate as a result of costs pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856. The department shall compute the amount by which the increased cost of such program or programs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund expenditures by such amount for that fiscal year.

(5) A Class II, III, IV, or V district may exceed its applicable allowable growth rate by the specific dollar amount of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011.

(6) A Class II, III, IV, V, or VI district may exceed the district's applicable allowable growth rate by a specific dollar amount in any year for which the state aid calculation for the local system includes students in the qualified early childhood education fall membership for the first time or for a year in which an early childhood education program of the district is receiving an expansion grant. The department shall compute the amount by which the district may exceed the district's applicable allowable growth rate by multiplying the cost grouping cost per student for the local system's cost grouping by the local system's adjusted formula students attributed to early childhood education programs if students are included in the local system's qualified early childhood education fall membership for the first time or by the local system's adjusted formula students attributed to such early childhood education programs minus the local system's adjusted formula students attributed to such early childhood education programs for the prior school fiscal year if a program is receiving an expansion grant in the school fiscal year for which the fall membership is measured. The department shall allow the district to increase its general fund expenditures by such amount for such school fiscal year.

(7) For school fiscal year 2005-06, a Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount not to exceed seventy-four hundredths percent of the amount budgeted for employee salaries for such school fiscal year. For school fiscal year 2006-07, a Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount not to exceed fifty-nine hundredths percent of the amount budgeted for employee salaries for such school fiscal year.

(8) For school fiscal year 2006-07, a Class II or III school district that has been exempt from the transportation requirements of subdivision (1)(c) of section 79-611 due to the school district's status as a Class VI school district in a prior school fiscal year may exceed its applicable allowable growth rate by an amount equal to anticipated transportation expenditures necessary to meet new transportation requirements. The department shall approve, deny, or modify the anticipated transportation expenditures. The department shall compute the actual transportation expenditures necessary to meet new transportation requirements for school fiscal year 2006-07 and shall, if needed, modify the local system's applicable allowable growth rate for the ensuing school fiscal year.

(9) A Class II, III, IV, or V school district may exceed its applicable allowable growth rate by a specific dollar amount not to exceed the amount received during such school fiscal year from educational entities as defined in section 18 of this act for providing distance education courses through the Distance Education Council to such educational entities.

(10) A Class II, III, IV, or V school district may exceed its applicable allowable growth rate for school fiscal year 2007-08 by a specific dollar amount equal to the amount paid in school fiscal year 2006-07 to any distance education consortium in which the school district was participating pursuant to an interlocal agreement.

Sec. 8. Section 79-1204, Reissue Revised Statutes of Nebraska, is amended to read:

79-1204 (1) The role and mission of the educational service units is to serve as educational service providers in the state's system of elementary

and secondary education.

(2) Educational service units shall:

(a) Act primarily as service agencies in providing core services and services identified and requested by member school districts;

(b) Provide for economy, efficiency, and cost-effectiveness in the cooperative delivery of educational services;

(c) Provide educational services through leadership, research, and development in elementary and secondary education;

(d) Act in a cooperative and supportive role with the State Department of Education and school districts in development and implementation of long-range plans, strategies, and goals for the enhancement of educational opportunities in elementary and secondary education; and

(e) Serve, when appropriate and as funds become available, as a repository, clearinghouse, and administrator of federal, state, and private funds on behalf of school districts which choose to participate in special programs, projects, or grants in order to enhance the quality of education in Nebraska schools.

(3) Except as provided in section 79-1241, core services shall be provided by educational service units to all member school districts. Core services shall be defined by each educational service unit as follows:

(a) Core services shall be within the following service areas in order of priority: (i) Staff development; (ii) technology, including distance education services; and (iii) instructional materials services;

(b) Core services shall improve teaching and student learning by focusing on enhancing school improvement efforts, meeting statewide requirements, and achieving statewide goals in the state's system of elementary and secondary education;

(c) Core services shall provide schools with access to services that:

(i) The educational service unit and its member school districts have identified as necessary services;

(ii) Are difficult, if not impossible, for most individual school districts to effectively and efficiently provide with their own personnel and financial resources;

(iii) Can be efficiently provided by each educational service unit to its member school districts; and

(iv) Can be adequately funded to ensure that the service is provided equitably to the state's public school districts;

(d) Core services shall be designed so that the effectiveness and efficiency of the service can be evaluated on a statewide basis; and

(e) Core services shall be provided by the educational service unit in a manner that minimizes the costs of administration or service delivery to member school districts.

(4) Educational service units shall meet minimum accreditation standards set by the State Board of Education that will:

(a) Provide for accountability to taxpayers;

(b) Assure that educational service units are assisting and cooperating with school districts to provide for equitable and adequate educational opportunities statewide; and

(c) Assure a level of quality in educational programs and services provided to school districts by the educational service units.

(5) Educational service units may contract to provide services to:

(a) Nonmember public school districts;

(b) Nonpublic school systems;

(c) Other educational service units; and

(d) Other political subdivisions, under the Interlocal Cooperation Act and the Joint Public Agency Act.

(6) Educational service units shall not regulate school districts unless specifically provided pursuant to another section of law.

Sec. 9. Section 79-1223, Reissue Revised Statutes of Nebraska, is amended to read:

79-1223 In order to carry out the purposes provided in section 79-1204, educational service units may purchase, lease, or lease-purchase real estate, equipment, supplies, services, and personal property for their own use. Educational service units may, either individually or collectively, purchase, lease, lease-purchase, or act as purchase agent for administrative and instructional supplies, instructional equipment, instructional services, and personal property for resale only to ~~school districts and state colleges within the territorial boundaries of any educational service unit~~ educational entities as defined in section 18 of this act. When an educational service unit advertises for bids for administrative or instructional ~~materials~~ supplies, instructional equipment, instructional services, and personal

property, acceptance of any bid submitted to the educational service unit shall obligate the educational service unit to award the contract in accordance with the plans and specifications and in the quantities set forth in the bid documents.

Sec. 10. Section 79-1233, Reissue Revised Statutes of Nebraska, is amended to read:

79-1233 Each educational service unit shall provide, ~~in cooperation with the State Department of Education,~~ access for all school districts within the geographical area served by the unit to telecomputing resources, which shall include the capacity to receive and transmit distance education courses on at least a regional basis beginning on or before August 1, 2007, through the installation of necessary equipment at each educational service unit location or through interlocal agreements with other educational service units and shall provide support for training users to meet their specific telecomputing needs and distance education needs. School districts may annually elect prior to a date determined by the educational service unit not to connect to such telecomputing resources. Each educational service unit shall also develop, with the State Department of Education, a plan which provides for connecting the telecomputing and distance education equipment of such school districts with the telecomputing and distance education equipment of the unit.

The leasing or purchase of and planning for telecomputing or distance education equipment and software for the educational service units shall be coordinated by the department and shall be compatible with a statewide plan for telecomputing agreed upon by the Department of Administrative Services and the State Department of Education shall meet the minimum standards as set by the Nebraska Information Technology Commission. The Chief Information Officer shall bid for such equipment and software and shall allow educational entities as defined in section 18 of this act to participate in such statewide leasing or purchasing contracts. Educational service units may enter into agreements pursuant to the Interlocal Cooperation Act and the Joint Public Agency Act to carry out this section. Such agreements may include, but need not be limited to, provisions requiring any school district having telecomputing or distance education equipment connected to the educational service unit's telecomputing or distance education equipment to pay periodic fees necessary to cover the cost of such usage.

Sec. 11. Section 79-1241.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1241.01 ~~It is the intent of the Legislature to appropriate nine million seven hundred thousand dollars from the General Fund for FY1998-99 to be distributed pursuant to section 79-1241 for school fiscal year 1998-99. It To carry out sections 79-1241 and 79-1243, it is the intent of the Legislature to appropriate for FY1999-00 and each fiscal year thereafter~~ each fiscal year the amount appropriated in the prior year increased by the percentage growth in the fall membership of member districts plus the basic allowable growth rate described in section 79-1025. For purposes of this section, fall membership has the same meaning as in section 79-1003. Fall membership data used to compute growth shall be from the two most recently available fall membership reports.

Sec. 12. Section 79-1241.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-1241.02 It is the intent of the Legislature that any funds appropriated pursuant to the intent of section 79-1241.01 or 79-1243 for technology-related projects or technology initiatives undertaken by an educational service unit follow the review process established in sections 86-512 to 86-524, including the review by the technical panel of the Nebraska Information Technology Commission.

Sec. 13. Section 79-1243, Reissue Revised Statutes of Nebraska, is amended to read:

79-1243 ~~It is the intent of the Legislature to appropriate three million dollars for FY1999-00 for use by educational service units for technology infrastructure as defined in section 79-1201.01. It is the intent of the Legislature to appropriate for FY2000-01 and each fiscal year thereafter the amount appropriated in the prior year increased by the percentage growth in the fall membership of member districts plus the basic allowable growth rate described in section 79-1025. For purposes of this section, fall membership has the same meaning as in section 79-1003. Fall membership data used to compute growth shall be from the two most recently available fall membership reports. The funds shall be distributed as provided in section 79-1241.~~ (1) Funds appropriated for technology infrastructure shall be distributed proportionally to each educational service unit by the State Department of Education based on the fall membership of member districts in

the preceding school fiscal year, except that no educational service unit shall receive less than the sum of (a) two and one-half percent of the funds appropriated for technology infrastructure plus (b) eighty-five percent of the difference of the costs for telecommunications services, for access to data transmission networks that transmit data to and from the educational service unit, and for the transmission of data on such networks paid by the educational service unit as reported on the annual financial report for the most recently available complete data year minus the receipts from the federal Universal Service Fund pursuant to section 254 of the Telecommunications Act of 1996, 47 U.S.C. 254, as such section existed on January 1, 2006, for the educational service unit as reported on the annual financial report for the most recently available complete data year and minus any receipts from school districts or other educational entities for payment of such costs as reported on the annual financial report of the educational service unit.

(2) Any funds appropriated for distribution pursuant to this section shall be distributed in ten as nearly as possible equal payments on the first business day of each month beginning in September of each school fiscal year and ending in June. Funds distributed pursuant to this section shall be used for technology infrastructure with the approval of representatives of two-thirds of the member school districts, representing a majority of the students in the member school districts.

(3) If two or more educational service units merge, the resulting merged educational service unit shall, for each of the two fiscal years following the fiscal year in which the merger takes place, receive technology infrastructure funds under this section in an amount not less than the total of the technology infrastructure funds that each of the merging educational service units received in the fiscal year immediately preceding the merger, except that if the appropriation for technology infrastructure funds for either of the two fiscal years following the fiscal year in which the merger takes place is less than the appropriation for such funds for the fiscal year immediately preceding the merger, technology infrastructure funds shall be reduced by a percentage equal to the ratio of the difference of such appropriation for the fiscal year immediately preceding the merger minus the appropriation for the fiscal year in question divided by the appropriation for the fiscal year immediately preceding the merger. Thereafter the distribution of technology infrastructure funds to the merged educational service unit shall be as provided in subsection (1) of this section.

Sec. 14. Section 79-1302, Reissue Revised Statutes of Nebraska, is amended to read:

79-1302 The Legislature finds that the utilization of appropriate technologies can provide enhanced educational services and broadened educational opportunities for Nebraska learners. The Legislature further finds that the state educational technology consortium established in section 79-1301 has established a plan for the introduction of technologies in the schools. It is the intent of the Legislature: (1) To utilize technology to provide effective and efficient distance learning; (2) to provide assistance and direction in the training of Nebraska teachers in uses of technology for instruction through electronic means; (3) to establish and support an electronic data network and data bases for Nebraska educators and learners; (4) to support the evaluation and dissemination of models of successful technologies which improve instruction or learning; (5) to provide support for cooperative education-technology ventures in partnership with public or private entities; and (6) to provide support for cooperative purchase or leasing of administrative or instructional software or software licenses in partnership with schools, educational service units, and other states.

Sec. 15. Section 79-1303, Reissue Revised Statutes of Nebraska, is amended to read:

79-1303 The Educational Technology Center within the State Department of Education is created. The mission of the center is to achieve the legislative goals set forth in section 79-1302 and to provide leadership and support for the ~~introduction~~ and integration of technology and innovation into Nebraska elementary and secondary schools in order to provide quality education and equal opportunity for Nebraska learners.

Sec. 16. Section 79-1304, Reissue Revised Statutes of Nebraska, is amended to read:

79-1304 The Educational Technology Center has, but is not limited to, the following specific duties:

(1) To design, implement, and evaluate a distance learning project, including at least one course transmitted via interactive audio, video, or computer in order to equalize student access and educational opportunities in geographically isolated areas of the state evaluate Internet-based distance education courses;

- (2) To provide clearinghouse services for information concerning current technology projects as well as software and hardware development;
- (3) To serve as a demonstration site for state-of-the-art hardware appropriate to an educational setting;
- (4) To provide technical assistance to educators in working with hardware and software;
- (5) To provide inservice and preservice training for educators, in conjunction with other ~~public and private~~ educational entities as defined in section 18 of this act, in the use of computers, telecommunications, and other electronic technologies appropriate to an educational setting;
- (6) To sponsor activities which promote the use of technology in the classroom;
- (7) To serve as a liaison between business and education interests in technology communication;
- (8) To experiment with various applications or technology in education;
- (9) To assist schools in planning for and selecting appropriate technologies;
- (10) To design, implement, and evaluate pilot projects to assess the usefulness of technologies in school management, curriculum, instruction, and learning;
- (11) To seek partnerships with the Nebraska Educational Telecommunications Commission, the University of Nebraska, the state colleges, community colleges, educational service units, the Nebraska Library Commission, and other public and private entities in order to make effective use of limited resources;
- (12) To encourage sharing among school districts to deliver cost-efficient and effective distance learning; and
- ~~(13) To establish an electronic data network and access to appropriate data bases for learners and educators through purchase of necessary hardware, software, and licenses for national data bases. The center shall provide assistance to schools for training communication costs and, through work with Nebraska educators and learners, shall develop state-level data bases; and~~
- ~~(14)~~ (13) To identify, evaluate, and disseminate information on school projects which have the potential to enhance the quality of instruction or learning.

Sec. 17. On July 1, 2007, educational service units shall assume responsibility for distance education services that are, on the effective date of this act, being provided to member school districts through a distance education consortium. Interlocal agreements forming distance education consortia shall terminate on June 30, 2007. On or before December 31, 2006, each distance education consortium shall hold a meeting of the superintendents of all participating school districts to choose an educational service unit to be the successor in interest for the assets and liabilities of the distance education consortium by a majority vote of the superintendents present at such meeting. All assets and liabilities, including staff and contracts with service providers, shall be transferred to such educational service unit on July 1, 2007. Educational service units may contract with other educational service units to provide such distance education services to some or all of the member school districts.

For purposes of this section, distance education consortium means any entity formed through interlocal agreements to facilitate the exchange of distance education courses between school districts.

Sec. 18. For purposes of sections 17 to 23 of this act:

- (1) Distance education course means a course with at least one student in any of grades kindergarten through twelve who is in a different location than the teacher and taught by a teacher employed by an educational entity either utilizing two-way interactive video or the Internet without two-way interactive video. Distance education course includes a dual-enrollment course with at least one student who is in a different location than the teacher and taught by a teacher employed by an educational entity utilizing either two-way interactive video or the Internet without two-way interactive video;
- (2) Dual-enrollment course means a course taught to students for credit at both a high school and a postsecondary educational institution;
- (3) Educational entity means a school district, a private, denominational, or parochial school, an educational service unit, a community college, a state college, the University of Nebraska, or a nonprofit private postsecondary educational institution;
- (4) Network Nebraska means the network created pursuant to section 30 of this act;



(5) Qualified distance education course means a distance education course which meets any applicable rules and regulations of the State Department of Education, is offered for one semester of high school credit or the equivalent, and for which all of the participating educational entities are required to have access to Network Nebraska; and

(6) Two-way interactive video distance education course means a distance education course in which a teacher delivers instruction to students in a different location than the teacher using two-way interactive video on at least two different days per week during the course.

Sec. 19. The Distance Education Council is created. The council shall coordinate distance education in Nebraska. The council shall be composed of one administrator or his or her designee from each educational service unit. The council shall hire an administrator and such other personnel as necessary to carry out the functions of the council. The council shall be funded from appropriations by the Legislature and fees established for services provided to educational entities.

Sec. 20. The powers and duties of the Distance Education Council include, but are not limited to:

(1) Providing public access to lists of qualified distance education courses;

(2) Collecting and providing school schedules for participating educational entities;

(3) Facilitation of scheduling for qualified distance education courses;

(4) Brokering of qualified distance education courses to be purchased by educational entities;

(5) Assessment of distance education needs and evaluation of distance education services;

(6) Compliance with technical standards as set forth by the Nebraska Information Technology Commission and academic standards as set forth by the State Department of Education related to distance education;

(7) Establishment of a system for prioritizing courses if the demand for Network Nebraska exceeds the capacity available for distance education and for choosing receiving educational entities when the demand for a course exceeds the capacity as determined by either the technology available or the course provider;

(8) Scheduling and prioritization for access to Network Nebraska by educational entities in cooperation with the Chief Information Officer and using scheduling software or scheduling services which meet any applicable standards established by the commission;

(9) Administration of learning management systems that are in compliance with any applicable standards of the commission either through the staff of the council or by delegation to an appropriate educational entity with the funding for such systems provided by participating educational entities; and

(10) Coordination with educational service units and postsecondary educational institutions to provide assistance for instructional design for both two-way interactive video distance education courses and the offering of graduate credit courses in distance education.

Sec. 21. The Distance Education Council shall only provide assistance in brokering or scheduling courses to educational entities that have access to Network Nebraska. All costs to the council associated with assisting private, denominational, or parochial schools and private postsecondary educational institutions shall be paid by such private, denominational, or parochial school or private postsecondary educational institution. Any services of the council may also be offered to other public entities with access to Network Nebraska on a contractual basis. The council shall not approve technology purchases for the council in excess of ten thousand dollars without approval of the technical panel of the Nebraska Information Technology Commission that the purchases are in compliance with any applicable commission standards.

Sec. 22. (1) For fiscal years 2007-08 through 2013-14, the State Department of Education shall provide distance education equipment reimbursement to school districts and educational service units from the Education Innovation Fund as provided in this section. Such reimbursements shall be for hardware or software purchased after the effective date of this act for use in distance education and shall be limited to a total through fiscal year 2013-14 of twenty thousand dollars multiplied by the number of high school buildings for each school district and twenty thousand dollars for each educational service unit. The reimbursements may include installation costs for such hardware or software. Applications shall be accepted by the department beginning in the first year that the school district or the

educational service unit accesses Network Nebraska and ending June 30, 2013. Applications shall be submitted on or before July 1 of each year on a form specified by the department and shall include:

(a) A description of the hardware or software purchased and how the hardware or software will be used for distance education;

(b) Copies of receipts for the purchases to be reimbursed; and

(c) For school districts, a commitment to either send or receive two-way interactive video distance education courses through the Distance Education Council each semester, or the equivalent of two semester courses each year, for four years and to apply for distance education incentives pursuant to section 23 of this act or to provide any other evidence required by the department to show that the commitment was met.

(2) On or before August 1 of each year, the department shall certify the reimbursements to be paid to each school district or educational service unit on or before September 1 of each year.

(3) The department shall use the applications for distance education incentives submitted pursuant to section 23 of this act and any other information requested by the department pursuant to rules and regulations of the department to verify that each school district that received a reimbursement completes the commitment to either send or receive two-way interactive video distance education courses through the Distance Education Council for four years. Any school district failing to complete such commitment shall repay the Education Innovation Fund for the amount of any reimbursements received pursuant to this section. On or before September 1 of each year, the department shall notify any school district failing to complete the commitment for the prior school year that repayment of the reimbursement is required and the amount of such repayment. Repayments shall be due on or before the immediately following December 31. Late repayments shall accrue interest at the rate prescribed in section 45-104.02 from the date of the initial reimbursement.

(4) On or before October 1 of each year, a school district or educational service unit may appeal the denial of reimbursements or a school district may appeal the requirement to repay reimbursements to the State Board of Education. The board shall allow a representative of the school district or educational service unit an opportunity to present information concerning the appeal to the board at the November board meeting. If the board finds that the department denied the reimbursement in error, the department shall pay the district or educational service unit from the Education Innovation Fund as soon as practical the amount which was denied in error. If the board finds that the department erred in notifying a school district that a reimbursement is required to be repaid, such notification shall be void.

(5) The State Board of Education shall adopt and promulgate rules and regulations to carry out this section.

Sec. 23. (1) For fiscal years 2007-08 through 2015-16, the State Department of Education shall provide distance education incentives from the Education Innovation Fund to school districts and educational service units for qualified distance education courses and coordinated through the Distance Education Council as provided in this section.

(2) School districts and educational service units shall apply for incentives annually to the department on or before August 1 on a form specified by the department. The application shall:

(a) For school districts, specify (i) the qualified distance education courses which were received by students in the membership of the district in the then-current school fiscal year and which were not taught by a teacher employed by the school district and (ii) for each such course (A) the number of students in the membership of the district who received the course, (B) the educational entity employing the teacher, and (C) whether the course was a two-way interactive video distance education course; and

(b) For school districts and educational service units, specify (i) the qualified distance education courses which were received by students in the membership of another educational entity in the then-current school fiscal year and which were taught by a teacher employed by the school district or educational service unit, (ii) for each such course for school districts, the number of students in the membership of the district who received the course, and (iii) for each such course (A) the other educational entities in which students received the course and how many students received the course at such educational entities, (B) any school districts in the sparse cost grouping or the very sparse cost grouping as described in section 79-1007.02 that had at least one student in the membership who received the course, and (C) whether the course was a two-way interactive video distance education course.

(3) On or before September 1 of each year, the department shall certify the incentives to be paid to each school district and educational

service unit on or before October 1 of each year. The incentives for each district shall be calculated as follows:

(a) Each district shall receive distance education units for each qualified distance education course as follows:

(i) One distance education unit for each qualified distance education course received as reported pursuant to subdivision (2) (a) of this section if the course was a two-way interactive video distance education course;

(ii) One distance education unit for each qualified distance education course sent as reported pursuant to subdivision (2) (b) of this section if the course was not received by at least one student who was in the membership of another school district which was in the sparse cost grouping or the very sparse cost grouping;

(iii) One distance education unit for each qualified distance education course sent as reported pursuant to subdivision (2) (b) of this section if the course was received by at least one student who was in the membership of another school district which was in the sparse cost grouping or the very sparse cost grouping, but the course was not a two-way interactive video distance education course; and

(iv) Two distance education units for each qualified distance education course sent as reported pursuant to subdivision (2) (b) of this section if the course was received by at least one student who was in the membership of another school district which was in the sparse cost grouping or the very sparse cost grouping and the course was a two-way interactive video distance education course;

(b) The difference of the amount available for distribution in the Education Innovation Fund on the August 1 when the applications were due minus any amount to be paid to school districts pursuant to section 22 of this act shall be divided by the number of distance education units to determine the incentive per distance education unit, except that the incentive per distance education unit shall not equal an amount greater than one thousand dollars; and

(c) The incentives for each school district shall equal the number of distance education units calculated for the school district multiplied by the incentive per distance education unit.

(4) The department may verify any or all application information using annual curriculum reports and may request such verification from the Distance Education Council.

(5) On or before October 1 of each year, a school district or educational service unit may appeal the denial of incentives for any course by the department to the State Board of Education. The board shall allow a representative of the school district or educational service unit an opportunity to present information concerning the appeal to the board at the November board meeting. If the board finds that the course meets the requirements of this section, the department shall pay the district from the Education Innovation Fund as soon as practical in an amount for which the district or educational service unit should have qualified based on the incentive per distance education unit used in the original certification of incentives pursuant to this section.

(6) The State Board of Education shall adopt and promulgate rules and regulations to carry out this section.

Sec. 24. Section 79-1319, Reissue Revised Statutes of Nebraska, is amended to read:

79-1319 All telecommunications facilities operated or supervised by the Nebraska Educational Telecommunications Commission shall be operated at all times on a noncommercial basis, except that revenue may be generated from other nonprofit or commercial sources by the lease of through contractual arrangements involving excess transponder capacity, excess transmission spectrum, or transmission and production facilities. All lease arrangements authorized by this section shall be made for the purpose of paying a portion of the costs associated with satellite capacity replacement and digital conversion. All lease contractual arrangements shall be based on sound business principles that are made in the best interest of the State of Nebraska. The commission may also enter into partnerships with public or private entities for the purpose of jointly building and operating tower and other transmission structures. All telecommunications facilities operated or supervised by the commission shall not produce or be involved in the production of commercials and shall not be involved in the distribution or retransmission of national commercial and subscription television channels.

Operational and administrative service pertinent to the production and utilization of inclass telecommunications instruction shall be made available to all schools and colleges of Nebraska on the basis of the actual

cost of production exclusive of general overhead expense.

Sec. 25. Section 79-1325, Reissue Revised Statutes of Nebraska, is amended to read:

79-1325 The duties and responsibilities of the director of instructional telecommunications include, but are not limited to, the following:

(1) To administer the elementary and secondary instructional telecommunications responsibilities as provided by law under the direction of the Commissioner of Education;

(2) To act as contract agent for the State Department of Education in instructional telecommunications business;

(3) To provide a liaison between the State Department of Education and educational organizations to which instructional telecommunications has application;

(4) To consult and cooperate with the Nebraska Educational Telecommunications Commission so as to coordinate in an effective manner the transmission of instructional telecommunications programming to elementary and secondary schools;

(5) To consult and cooperate with State Department of Education personnel so as to make the most efficient use of instructional telecommunications within the elementary and secondary curricula and in the improvement of Nebraska education;

(6) To provide for the evaluation of the fulfillment of school needs through instructional telecommunications programming; and

~~(7) To assist in the arrangements by which all Nebraska schools would have access to a minimum of two instructional telecommunications services: One through broadcast, such as via a Nebraska educational television network, and another through other telecommunications techniques which provide educational telecommunications programming other than that simulcast by means of the open circuit; and~~

~~(8)~~ (7) To designate such ad hoc committees as may be needed and to charge these committees with special tasks in carrying out assigned responsibilities.

Sec. 26. Section 81-1634, Revised Statutes Cumulative Supplement, 2004, is amended to read:

81-1634 Funds received in repayment for energy efficiency loans from the School Weatherization Fund shall be credited to the School Technology Fund until termination of the School Technology Fund pursuant to section 79-1310. ~~Upon termination of the School Technology Fund, funds received in repayment for energy efficiency loans from the School Weatherization Fund shall be credited to the General Fund.~~ For each fiscal year in which there are any outstanding loans, the Legislature shall designate a portion of the funds received in repayment for energy efficiency loans for use by the State Energy Office to cover the actual cost of administering outstanding loans.

Sec. 27. Section 86-515, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-515 (1) The Nebraska Information Technology Commission is created. The commission shall consist of ~~nine members, including~~ (a) one member representing elementary and secondary education, (b) one member representing postsecondary education, (c) the Governor or his or her designee, (d) one member representing communities, and (e) five members representing the general public who have experience in developing strategic plans and making high-level business decisions. At any time that there is not a member of the Distance Education Council serving on the Nebraska Information Technology Commission, the technical panel established pursuant to section 86-521, or any working groups established pursuant to sections 86-512 to 86-524 that establish, coordinate, or prioritize needs for education, the Governor shall appoint to the commission one member who serves on the Distance Education Council.

(2) The Governor or a designee of the Governor shall serve as chairperson of the commission.

(3) The members of the commission shall be appointed by the Governor with the approval of a majority of the Legislature. Members of the commission shall serve for terms of four years, except that two members initially appointed to represent the general public shall be appointed for a term of two years and any member appointed to represent the Distance Education Council shall be appointed for a term of one year. Members shall be limited to two consecutive terms. The Governor or his or her designee shall serve on the commission for his or her term. Each member shall serve until the appointment and qualification of his or her successor. In case of a vacancy occurring prior to the expiration of the term of a member, the appointment shall be made only for the remainder of the term.

(4) Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(5) The commission may employ or designate an executive director to provide administrative and operational support for the commission. The Department of Administrative Services and Nebraska Educational Telecommunications Commission shall assist with administrative and operational support for the Nebraska Information Technology Commission as necessary to carry out its duties.

Sec. 28. Section 86-516, Revised Statutes Supplement, 2005, is amended to read:

86-516 The commission shall:

(1) Annually by July 1, adopt policies and procedures used to develop, review, and annually update a statewide technology plan;

(2) Create an information technology clearinghouse to identify and share best practices and new developments, as well as identify existing problems and deficiencies;

(3) Review and adopt policies to provide incentives for investments in information technology infrastructure services;

(4) Determine a broad strategy and objectives for developing and sustaining information technology development in Nebraska, including long-range funding strategies, research and development investment, support and maintenance requirements, and system usage and assessment guidelines;

(5) Adopt guidelines regarding project planning and management, information sharing, and administrative and technical review procedures involving state-owned or state-supported technology and infrastructure. Governmental entities, state agencies, and political subdivisions shall submit projects which directly utilize state-appropriated funds for information technology purposes to the process established by sections 86-512 to 86-524. Governmental entities and political subdivisions may submit other projects involving information technology to the commission for comment, review, and recommendations;

(6) Adopt minimum technical standards, guidelines, and architectures upon recommendation by the technical panel;

(7) Establish ad hoc technical advisory groups to study and make recommendations on specific topics, including workgroups to establish, coordinate, and prioritize needs for education, local communities, and state agencies;

(8) By November 15 of each even-numbered year, make recommendations on technology investments to the Governor and the Legislature, including a prioritized list of projects, reviewed by the technical panel, for which new or additional funding is requested;

(9) Approve grants from the Community Technology Fund and Government Technology Collaboration Fund; ~~and~~

(10) Adopt schedules and procedures for reporting needs, priorities, and recommended projects; ~~and~~ -

(11) Assist the Chief Information Officer in developing and maintaining Network Nebraska pursuant to section 30 of this act.

Sec. 29. Section 86-520, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-520 The Chief Information Officer shall:

(1) Maintain, in cooperation with the Department of Administrative Services, an inventory of noneducation state government technology assets, including hardware, applications, and data bases;

(2) Recommend policies and guidelines for acceptable and cost-effective use of information technology in noneducation state government;

(3) Advise the Governor and Legislature on policy issues affecting noneducation state government related to information technology;

(4) Coordinate efforts among other noneducation state government technology agencies and coordinating bodies;

(5) Implement a strategic, tactical, and project planning process for noneducation state government information technology that is linked to the budget process;

(6) Assist the budget division of the Department of Administrative Services and Legislative Fiscal Analyst in evaluating technology-related budget requests;

(7) Work with each governmental department and noneducation state agency to evaluate and act upon opportunities to more efficiently and effectively deliver government services through the use of information technology;

(8) Recommend to the Governor and Legislature methods for improving the organization and management of data by noneducation agencies to achieve the goals of making information sharable and reusable, eliminating redundancy

of data and programs, improving the quality and usefulness of data, and improving access to data, and implement such recommendations as the Governor or Legislature may direct;

(9) Monitor the status of major noneducation state government technology projects;

(10) Establish and maintain Network Nebraska pursuant to section 30 of this act;

(11) Bid for telecomputing and distance education equipment pursuant to section 79-1233;

(12) Apply in aggregate for reimbursements from the federal Universal Service Fund pursuant to section 254 of the Telecommunications Act of 1996, 47 U.S.C. 254, as such section existed on January 1, 2006, on behalf of school districts requesting to be included in such aggregated application;

(13) Administer such funds as may be appropriated to the Chief Information Officer by the Legislature; and

~~(11)~~ (14) Complete other tasks as assigned by the Governor.

Sec. 30. The Chief Information Officer, in partnership with the University of Nebraska, shall develop and maintain a statewide, multipurpose, high capacity, scalable telecommunications network to be called Network Nebraska. The network shall consist of contractual arrangements with providers to meet the demand of state agencies, local governments, and educational entities as defined in section 18 of this act. Such network shall provide access to a reliable and affordable infrastructure capable of carrying a spectrum of services and applications, including distance education, across the state. The Chief Information Officer shall provide access to each school district, each educational service unit, each community college, each state college, and the University of Nebraska at the earliest feasible date and no later than July 1, 2012. Access may be provided through educational service units or other aggregation points. The Chief Information Officer shall aggregate demand for those state agencies and educational entities choosing to participate and shall reduce costs for participants whenever feasible. The Chief Information Officer shall establish a cost structure based on actual costs plus administrative expenses and shall charge participants according to such cost structure.

Sec. 31. Original sections 79-704, 79-761, 79-1018.01, 79-1204, 79-1223, 79-1233, 79-1241.01, 79-1241.02, 79-1243, 79-1302, 79-1303, 79-1304, 79-1319, and 79-1325, Reissue Revised Statutes of Nebraska, sections 9-812, 81-1634, 86-515, and 86-520, Revised Statutes Cumulative Supplement, 2004, and sections 79-1003, 79-1007.02, 79-1028, and 86-516, Revised Statutes Supplement, 2005, are repealed.

Sec. 32. The following sections are outright repealed: Sections 79-1301, 79-1305, 79-1306, 79-1307, 79-1310, and 79-1328, Reissue Revised Statutes of Nebraska, and sections 79-1329 and 79-1330, Revised Statutes Supplement, 2005.