

LEGISLATIVE BILL 126
Passed over the Governor's veto
June 3, 2005.

Introduced by Raikes, 25; Baker, 44; Beutler, 28; Bourne, 8; Byars, 30;
Engel, 17; Janssen, 15; Jensen, 20; Mines, 18; Price, 26;
Redfield, 12; Stuhr, 24; Thompson, 14

AN ACT relating to schools; to amend sections 32-542, 79-102, 79-401, 79-402, 79-403, 79-405, 79-407, 79-408, 79-409, 79-410, 79-413, 79-415, 79-416, 79-418, 79-419, 79-422, 79-423, 79-433, 79-434, 79-435, 79-443, 79-447, 79-449, 79-452, 79-454, 79-455, 79-470, 79-473, 79-479, 79-499, 79-4,101, 79-4,108, 79-4,111, 79-556, 79-611, 79-850, 79-857, 79-1003, 79-1026, 79-1027, 79-1031.01, 79-1083.02, and 79-1083.03, Reissue Revised Statutes of Nebraska, and sections 79-1016, 79-1022, and 79-1028, Revised Statutes Supplement, 2004; to provide for reorganization of certain school districts as prescribed; to provide for community schools, rural education transition funds, and elementary improvement grants; to change and eliminate provisions relating to school district reorganization; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 79-404, 79-406, 79-411, 79-417, 79-424 to 79-427, 79-431, 79-472, 79-477, 79-478, 79-492 to 79-495, 79-4,109, and 79-4,110, Reissue Revised Statutes of Nebraska.

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

Section 1. (1) On or before September 10, 2005, the secretary of the school board of each Class I school district shall certify to each Class II, III, IV, and VI school district with which territory within the boundaries of the Class I school district is affiliated or of which territory within such boundaries is a part:

(a) A statement of the highest grade offered by the Class I school district; and

(b) A list of the former students of the Class I school district who in school year 2001-02, 2002-03, or 2003-04 completed the highest grade offered by the Class I school district.

(2) On or before October 1, 2005, the superintendent of each Class II, III, IV, or VI school district receiving such list of students shall certify to the Class I school district a modified list specifying:

(a) The students, if any, who appear on the list provided by the Class I school district pursuant to subsection (1) of this section and who were enrolled in such Class II, III, IV, or VI school district for any part of school year 2002-03, 2003-04, or 2004-05; and

(b) Additional students, if any, who were residents of the Class I school district but who completed the highest grade offered by the Class I school district as an enrollment option student in the Class II, III, IV, or VI school district in school year 2001-02, 2002-03, or 2003-04.

(3) The secretary of the school board of each Class I school district shall determine a membership percentage for each Class II, III, IV, or VI school district with which territory within the boundaries of the Class I school district is affiliated or of which territory within such boundaries is a part by dividing the number of students specified by the Class II, III, IV, or VI school district pursuant to subsection (2) of this section by the total number of students specified by all Class II, III, IV, or VI school districts with which territory within the boundaries of the Class I school district is affiliated or of which territory within such boundaries is a part. If a Class II, III, IV, or VI school district fails to provide the modified list required pursuant to subsection (2) of this section to a Class I school district on or before October 1, 2005, such Class II, III, IV, or VI school district shall be deemed to have had no such students to specify pursuant to subsection (2) of this section and shall have a membership percentage of zero percent.

(4) On or before November 1, 2005, the secretary of the school board of each Class I school district shall certify to the State Committee for the Reorganization of School Districts and to each Class II, III, IV, or VI school district with which territory within the boundaries of the Class I school district is affiliated or of which territory within such boundaries is a part a list of all membership percentages calculated by the Class I school district pursuant to subsection (3) of this section.

(5) The grades offered at an elementary attendance center shall

include any grade for which a student could enroll and receive education at the elementary attendance center for the specified school year.

Sec. 2. (1) Notwithstanding the provisions of any affiliation petition or plan entered into by Class I school districts prior to the operative date of this section, on or before December 1, 2005, the State Committee for the Reorganization of School Districts shall enter an order dissolving any Class I school district that does not comply with the requirements of subsection (4) of section 1 of this act and attaching the territory of such district to the Class II, III, IV, or VI school district with which the territory is affiliated or of which the territory is a part. The assets and liabilities of such district, except bonded indebtedness as provided in subsection (2) of this section, shall be distributed among the Class II, III, IV, or VI school districts to which the territory has been attached in proportion to the taxable valuation of the territory attached to such Class II, III, IV, or VI school district.

(2) The territory obligated for the bonded indebtedness of any Class I, II, III, IV, or VI school district shall not change as a result of an order issued pursuant to this section.

(3) The State Committee for the Reorganization of School Districts is not required to conduct public hearings prior to issuing orders pursuant to this section.

(4) The effective date for all orders pursuant to this section shall be January 1, 2006, for determining residence for election purposes and June 15, 2006, for all other purposes.

(5) The elementary attendance center for any Class I school district dissolved pursuant to this section shall not be subject to sections 4 and 40 of this act.

(6) For purposes of this section, to attach territory of a Class I district dissolved pursuant to this section to a Class VI district with which the territory is a part means to include the territory in the new Class II or Class III school district formed from the Class VI school district pursuant to subsection (5) of section 3 of this act.

Sec. 3. (1) Notwithstanding the provisions of any affiliation petition or plan entered into by Class I school districts prior to the operative date of this section, the State Committee for the Reorganization of School Districts shall issue orders, on or before December 1, 2005, which dissolve and attach the territory of each Class I school district, except as provided in section 2 of this act, to one or more Class II, III, IV, or VI school districts pursuant to one of the methods contained in subsection (3) of this section. To attach territory of a Class I district dissolved pursuant to this section to a Class VI district of which the territory is a part means to include the territory in the Class II or Class III school district formed from the Class VI school district pursuant to subsection (5) of this section.

(2) On or before October 1, 2005, each Class I school board may hold a public hearing regarding the dissolution of the Class I school district and its attachment to one or more Class II, III, IV, or VI school districts. On or before November 1, 2005, each Class I school board that held a hearing pursuant to this subsection may file with the State Committee for the Reorganization of School Districts a statement of commitment to attach all of the territory of the Class I district to one or more Class II, III, IV, or VI school districts. Valid statements of commitment shall:

(a) Specify the Class II, III, IV, and VI school districts to which the territory of the Class I school district will be attached and the territory to be attached to each specified school district; and

(b) Be approved by a majority of the members of the school boards of: (i) The Class I school district; (ii) all Class II, III, or IV school districts with which territory of the Class I school district is affiliated; (iii) all Class VI school districts of which territory of the Class I school district is a part; and (iv) all Class II, III, IV, or VI school districts which will receive territory from the Class I school district.

On or before September 10, 2005, the State Department of Education may prescribe the form and required contents for statements of commitment consistent with the requirements of this subsection.

(3) Orders issued pursuant to subsection (1) of this section shall dissolve each Class I school district and attach its territory as follows:

(a) If a valid statement of commitment was filed on or before November 1, 2005, the territory of the Class I school district shall be attached to one or more Class II, III, IV, or VI school districts according to the statement of commitment;

(b) If a valid statement of commitment was not filed on or before November 1, 2005, and the primary high school district for the Class I school district as designated for school year 2005-06 pursuant to section 79-1083.02

has a membership percentage of at least fifty percent as certified pursuant to subsection (4) of section 1 of this act or there is not a high school district with a membership percentage above zero percent as certified pursuant to subsection (4) of section 1 of this act, the territory of the Class I school district shall be attached to the Class II, III, IV, or VI school district with which the territory is affiliated or of which it is a part; or

(c) If a valid statement of commitment was not filed on or before November 1, 2005, and the primary high school district for the Class I school district does not have a membership percentage of at least fifty percent as certified pursuant to subsection (4) of section 1 of this act:

(i) The territory of the Class I school district that is affiliated with or a part of a Class II, III, IV, or VI school district that has a membership percentage of at least twenty percent shall be attached to such Class II, III, IV, or VI school district; and

(ii) The territory of the Class I school district that is affiliated with or a part of a Class II, III, IV, or VI school district that has a membership percentage that is not at least twenty percent shall be attached to the Class II, III, IV, or VI school district which has the largest membership percentage for the Class I school district.

(4) Orders issued pursuant to subsection (1) of this section shall transfer all assets and liabilities of each Class I school district, except bonded indebtedness as provided in subsection (6) of this section, as follows:

(a) If the territory of the Class I school district is attached pursuant to subdivision (3)(a) of this section, the assets and liabilities of the Class I school district shall be transferred to the Class II, III, IV, or VI school district which will receive the largest percentage of the taxable valuation of the territory of the Class I school district;

(b) If the territory of the Class I school district is attached pursuant to subdivision (3)(b) of this section, the assets and liabilities of the Class I school district shall be transferred to the primary high school district as designated for school fiscal year 2005-06 pursuant to section 79-1083.02; and

(c) If the territory of the Class I school district is attached pursuant to subdivision (3)(c) of this section, the assets and liabilities of the Class I school district shall be transferred to the Class II, III, IV, or VI school district with the largest membership percentage certified pursuant to subsection (4) of section 1 of this act.

(5) On or before December 1, 2005, the State Committee for the Reorganization of School Districts shall issue orders classifying each Class VI school district into a new Class II or Class III school district as defined in section 79-102. The territory of Class I school districts ordered to be attached to a Class VI school district pursuant to this section shall be attached to the new Class II or Class III school district created from such Class VI school district pursuant to this subsection. The existing school board members of each Class VI school district as of June 15, 2006, shall continue as the school board members for the new Class II or Class III school district created from such Class VI school district until their terms expire and their successors are elected and qualified.

(6) The territory obligated for the bonded indebtedness of any Class I, II, III, IV, or VI school district shall not change as a result of an order issued pursuant to this section.

(7) The effective date for all orders pursuant to this section shall be January 1, 2006, for determining residence for election purposes and June 15, 2006, for all other purposes.

(8) The State Committee for the Reorganization of School Districts shall not be required to conduct public hearings prior to issuing orders pursuant to this section.

Sec. 4. Any elementary attendance center may be designated as a community school through the formation of an operating council. On or before June 14, 2006, the school board of each Class I school may form an operating council for the district's elementary attendance center. If the school board of a Class II, III, IV, or V school district receives a request for an elementary attendance center to be designated as a community school, the school board shall hold an operating council organizational meeting at such elementary attendance center within sixty days after receiving the request, except that the school board shall not be required to hold organizational meetings at any one elementary attendance center more than once during a calendar year.

School boards of Class II, III, IV, and V school districts shall establish procedures for the formation of operating councils. Once formed, operating councils shall determine the timing and procedures for selecting successor members. Each operating council shall be composed of not less than

three and not more than six members.

Operating councils shall be advisory to the superintendent, the school board, and the principal of the community school on all matters affecting the community school. Operating councils shall propose and submit a budget for the community school to the school board and one or more members of the operating council shall interview and recommend staff for the community school. The superintendent of any school district containing at least one community school shall provide the operating councils with copies of public information provided by the school district staff to the school board regarding the budget and staffing decisions for the community school and proposed policy changes affecting the community school. The principal of a community school shall provide an opportunity for the operating council to meet with the principal not less than once each month.

Sec. 5. Each Class II or Class III school district with a fall membership for school year 2006-07 of six hundred or more students, formed on June 15, 2006, from a Class VI system, shall receive rural education transition funds pursuant to this section for school fiscal years 2006-07, 2007-08, and 2008-09. The amount to be distributed to each such district shall be calculated by first calculating the target amount for each such district. The target amount shall equal eighty percent of the sum of:

(1) Twenty thousand dollars multiplied by the sum of the number, up to nine, of Class I school districts which had one hundred percent of their territory within the Class VI system from which the Class II or Class III school district was formed and which had an average daily membership of less than six hundred students for school year 2005-06 plus one if the Class VI school district from which the Class II or Class III school district was formed had an average daily membership of less than six hundred students for school year 2005-06; plus

(2) One hundred dollars multiplied by the sum of the difference of average daily membership minus fifty students for school year 2005-06 for each Class I school district which had one hundred percent of their territory within the Class VI system from which the Class II or Class III school district was formed and which had an average daily membership of less than six hundred students for school year 2005-06 and for the Class VI school district from which the Class II or Class III school district was formed if the Class VI school district had an average daily membership of less than six hundred students for school year 2005-06. The difference of the average daily membership minus fifty students shall be zero if there were less than fifty students in the average daily membership for the district.

The amount to be distributed to each such district shall equal the target amount for the district unless the total of all target amounts exceeds the amount appropriated by the Legislature. If the total of all target amounts exceeds such appropriated amount, the target amounts shall be reduced proportionately such that the total of all target amounts equals such appropriated amount. The amount to be distributed shall be distributed to the school district as one lump-sum payment on the last business day of December and shall be treated as special grant funds as defined in section 79-1003.

Sec. 6. Class II and III school districts shall qualify for elementary improvement grants for the 2007-08, 2008-09, and 2009-10 school fiscal years if:

(1) The voters of the Class II or Class III school district approve a bond issue for at least two million dollars on or after June 15, 2006, and on or before June 14, 2007, for a project to remodel an existing elementary attendance center or to build a new elementary attendance center;

(2) Demographic factors increase the number of weighted formula students for the school district's local system by at least four and one-half percent to arrive at the adjusted formula students for the final calculation of state aid pursuant to section 79-1065 for the 2005-06 school year;

(3) The final calculation of state aid pursuant to section 79-1065 for the 2005-06 school year included at least three hundred ninety formula students for the school district's local system;

(4) The school district consists of at least one hundred fifty square miles; and

(5) The State Board of Education approves the project as being designed to improve the educational environment for students with diverse economic and cultural backgrounds.

The amount to be distributed each school fiscal year shall be divided equally among qualifying school districts up to one hundred thousand dollars for each school district. The amount to be distributed shall be distributed to the school district as one lump-sum payment on the last business day of December and shall be treated as special grant funds as defined in section 79-1003.

Sec. 7. Section 32-542, Reissue Revised Statutes of Nebraska, is amended to read:

32-542. Three school board members shall be elected for each Class II school district at each statewide general election. ~~except that when a Class II school district is created by a Class I school district which determines by a majority vote to establish a high school pursuant to section 79-406, a six-member board shall be elected at the next statewide general election and the three members receiving the highest number of votes shall be elected for terms of four years, and the three members receiving the next highest number of votes shall be elected for terms of two years.~~ Each member's term of office shall begin on the date of the first regular meeting of the board in January following the statewide general election at which he or she is elected and, except as otherwise provided in this section, shall continue for four years or until the member's successor is elected and qualified. The term of a board member holding office on January 1, 1997, which term would otherwise expire before the first regular meeting of the board in January following the statewide general election, shall be extended to the first regular meeting of the board in January following the date his or her term would otherwise expire. The school board members of a Class II school district shall meet the qualifications found in section 79-543.

Sec. 8. Section 79-102, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) ~~Class I includes any school district that maintains only elementary grades under the direction of a single school board;~~

~~(2) Class II includes any school district embracing territory having a population of one thousand inhabitants or less that maintains both elementary and high school grades under the direction of a single school board;~~

~~(3) (2) Class III includes any school district embracing territory having a population of more than one thousand and less than one hundred fifty thousand inhabitants that maintains both elementary and high school grades under the direction of a single school board;~~

~~(4) (3) Class IV includes any school district embracing territory having a population of one hundred thousand or more inhabitants with a city of the primary class within the territory of the district that maintains both elementary and high school grades under the direction of a single school board; and~~

~~(5) (4) Class V includes any school district embracing territory having a population of two hundred thousand or more inhabitants with a city of the metropolitan class within the territory of the district that maintains both elementary grades and high school grades under the direction of a single school board. + and~~

~~(6) Class VI includes any school district in this state that maintains only a high school, or a high school and grades seven and eight or six through eight as provided in section 79-411, under the direction of a single school board.~~

Sec. 9. Section 79-401, Reissue Revised Statutes of Nebraska, is amended to read:

79-401. The Legislature finds and declares that orderly and appropriate reorganization of school districts may contribute to the objectives of tax equity, educational effectiveness, and cost efficiency. The Legislature further finds that there is a need for greater flexibility in school reorganization options and procedures. It is the intent of the Legislature to encourage an orderly and appropriate reorganization of school districts. The Legislature establishes as its goals for the reorganization of school districts that:

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

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

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

Sec. 10. Section 79-402, Reissue Revised Statutes of Nebraska, is

amended to read:

79-402. ~~(1) By July 1, 1993~~ By August 1, 2006, all taxable property and all elementary and high school students shall be in school systems districts which offer education in grades kindergarten through twelve. ~~For purposes of meeting such requirement, a Class I district or portion thereof which is part of a Class VI district and a Class I district or portion thereof affiliated with one or more Class II, III, IV, or V districts shall be considered to include all taxable property and all elementary and high school students within a school system which offers education in grades kindergarten through twelve.~~

~~(2) Effective July 1, 1993, with the full implementation of section 79-1077, the Legislature will have attained its school reorganization goals for Class I districts as described in section 79-401.~~

Sec. 11. Section 79-403, Reissue Revised Statutes of Nebraska, is amended to read:

79-403. ~~(1) Except as provided in subsections (2) and (3) of this section, no~~ No new school district shall be created unless such district provides instruction in kindergarten through grade twelve.

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

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

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

~~(3) One or more new Class I districts may be created as a part of a reorganization petition pursuant to subsection (2) of this section.~~

Sec. 12. Section 79-405, Reissue Revised Statutes of Nebraska, is amended to read:

79-405. Every duly organized school district shall be a body corporate and possess all the usual powers of a corporation for public purposes, may sue and be sued, and may purchase, hold, and sell such personal and real property and control such obligations as are authorized by law. ~~estate as the law allows.~~ The county in which the principal office of the school district is located together with the school district number assigned pursuant to section 79-307 shall constitute the corporate name of the school district, such as County School District

Sec. 13. Section 79-407, Reissue Revised Statutes of Nebraska, is amended to read:

79-407. The territory within the corporate limits of each incorporated city or village in the State of Nebraska, together with such additional territory and additions to such city or village as may be added thereto, as declared by ordinances to be boundaries of such city or village, having a population of more than one thousand and less than one hundred fifty thousand inhabitants, including such adjacent territory as now is or hereafter may be attached for school purposes, shall constitute a Class III school district. ~~The school district shall be a body corporate and possess all the usual powers of a corporation for public purposes and may sue and be sued, purchase, hold, and sell such personal and real property, and control such obligations as are authorized by law.~~ Except as provided in section 79-473, the title to all school buildings or other real or personal property owned by any school district within the corporate limits of any city or village shall, upon the organization of the school district, vest immediately in the new school district. The school board of the new school district shall have exclusive control of such buildings and real or personal property for all purposes contemplated in this section. ~~except as provided in section 79-473.~~

Sec. 14. Section 79-408, Reissue Revised Statutes of Nebraska, is amended to read:

79-408. The territory now or hereafter embraced within each

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

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

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

Sec. 15. Section 79-409, Reissue Revised Statutes of Nebraska, is amended to read:

79-409. Each incorporated city of the metropolitan class in the State of Nebraska shall constitute one Class V school district. ~~A Class V school district shall be a body corporate and possess all the usual powers of a corporation for public purposes and may sue and be sued, purchase, hold, and sell such personal and real property, and control such obligations as are authorized by law.~~

Sec. 16. Section 79-410, Reissue Revised Statutes of Nebraska, is amended to read:

79-410. All school districts organized as of August 27, 1949, as rural high school districts or as county high school districts and all school districts formed as high school districts only shall be Class VI school districts until such districts are reorganized into Class II or Class III school districts pursuant to section 3 of this act.

Sec. 17. Section 79-413, Reissue Revised Statutes of Nebraska, is amended to read:

79-413. (1) The State Committee for the Reorganization of School Districts created under section 79-435 may create a new school district from other districts, ~~or change the boundaries of any Class II, III, IV, or V school district, or affiliate a Class I district or portion thereof with one or more existing Class II, III, IV, or V districts~~ upon receipt of petitions signed by sixty percent of the legal voters of each district affected. If the petitions contain signatures of at least sixty-five percent of the legal voters of each district affected, the state committee shall approve the petitions. ~~When area is added to a Class VI district or when a Class I district which is entirely or partially within a Class VI district is taken from the Class VI district, the Class VI district shall be deemed to be an affected district.~~

~~Any petition of the legal voters of a Class I district in which no city or village is situated which is commenced after January 1, 1996, and proposes the dissolution of the Class I district and the attachment of a portion of it to two or more districts shall require signatures of more than fifty percent of the legal voters of such Class I district. If the state committee determines that such petition contains valid signatures of more than fifty percent of the legal voters of such Class I district, the state committee shall grant the petition.~~

~~(2)(a)~~ (2) Petitions proposing to change the boundaries of existing school districts through the transfer of a parcel of land, not to exceed six hundred forty acres, shall be approved by the state committee when the petitions involve the transfer of land between Class I, II, III, IV, or V school districts or when there would be an exchange of parcels of land between

Class I, II, III, IV, or V school districts and the petitions have the approval of at least sixty-five percent of the school board of each affected district. If the transfer of the parcel of land is from a Class I school district to one or more Class II, III, IV, V, or VI school districts of which the parcel is not a part or with which the parcel is not affiliated, any Class II, III, IV, V, or VI school district of which the parcel is not a part or with which the parcel is affiliated shall be deemed an affected district.

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

(3) (a) Petitions proposing to create a new school district, or to change the boundary lines of existing Class II, III, IV, or V school districts, to create an affiliated school system, or to affiliate a Class I district in part and to join such district in part with a Class VI district, any of which involves the transfer of more than six hundred forty acres, shall, when signed by at least sixty percent of the legal voters in each district affected, be submitted to the state committee. In the case of a petition for affiliation or a petition to affiliate in part and in part to join a Class VI district, the state committee shall review the proposed affiliation subject to sections 79-425 and 79-426. The state committee shall, within forty days after receipt of the petition, hold one or more public hearings and review and approve or disapprove such proposal.

(b) The state committee shall also review and approve or disapprove incentive payments under section 79-1010.

(c) If there is a bond election to be held in conjunction with the petition, the state committee shall hold the petition until the bond election has been held, during which time names may be added to or withdrawn from the petitions. The results of the bond election shall be certified to the state committee.

(d) (c) If the bond election held in conjunction with the petition is unsuccessful, no further action on the petition is required. If the bond election is successful, within fifteen days after receipt of the certification of the bond election results, the state committee shall approve the petition and notify the county clerk to effect the changes in district boundary lines as set forth in the petitions.

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

(5) A signing petitioner may withdraw his or her name from a petition and a legal voter may add his or her name to a petition at any time prior to the end of the period when the petition is held by the state committee. Additions and withdrawals of signatures shall be by notarized affidavit filed with the state committee.

Sec. 18. Section 79-415, Reissue Revised Statutes of Nebraska, is amended to read:

79-415. (1) In addition to the petitions of legal voters pursuant to section 79-413, changes in boundaries and the creation of a new school district from other districts may be initiated and accepted by the school board or board of education of any Class II, III, IV, or V district.

(2) In addition to the petitions of legal voters pursuant to section 79-413, the affiliation of a Class I district or portion thereof with one or more Class II, III, IV, or V districts may be initiated and accepted by:

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

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

Sec. 19. Section 79-416, Reissue Revised Statutes of Nebraska, is amended to read:

79-416. When the legal voters of a Class I or Class II school district in which no city or village is located petition to merge in whole or in part with a Class I or Class II district, the merger may be accepted by petition of the school board of the accepting district. When the legal voters of a Class I district petition to affiliate in whole or in part with one or

~~more Class II, III, IV, or V districts, such affiliation may be accepted or rejected by petition of the school board or board of education of any such district, but in either case the petition to affiliate shall be accepted or rejected within sixty days after the date of receipt of the petition by the school board or board of education of such district.~~

Sec. 20. Section 79-418, Reissue Revised Statutes of Nebraska, is amended to read:

79-418. Petitions presented pursuant to ~~sections~~ section 79-415 ~~to 79-417 or 79-416~~ shall be subject to the same requirements for content, hearings, notice, review, and appeal as petitions submitted pursuant to section 79-413, except that a petition presented pursuant to section 79-415 shall not become effective unless it is approved by a vote of a majority of the members of the State Committee for the Reorganization of School Districts. Any person adversely affected by the disapproval shall have the right of appeal under section 79-413.

Sec. 21. Section 79-419, Reissue Revised Statutes of Nebraska, is amended to read:

79-419. (1) When a new district is to be created from other districts as provided in section 79-413, the petition shall contain:

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

(b) A summary of the terms on which reorganization is to be made between the reorganized districts, which terms may include a provision for initial school board districts or wards within the proposed district for the appointment of the first school board and also for the first election as provided in section 79-451, which proposed initial school board districts or wards shall be determined by the State Committee for the Reorganization of School Districts taking into consideration population and valuation, and a determination of the terms of the board members first appointed to membership of the board of the newly reorganized district;

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

(d) A separate statement as to whether the reorganization is contingent upon the success of a bond election held in conjunction with the reorganization;

(e) An affidavit from the county clerk or election commissioner regarding the validity of the signatures on the petition; and

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

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

Sec. 22. Section 79-422, Reissue Revised Statutes of Nebraska, is amended to read:

79-422. ~~(1)~~ Bonded indebtedness approved by legal voters prior to any change in school district boundary lines pursuant to sections 79-413 to 79-421 shall remain the obligation of the school district voting such bonds unless otherwise specified in the petitions. When a district is dissolved by petitions and the area is attached to two or more districts, the petitions shall specify the disposition of assets and unbonded obligations of the original district.

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

Sec. 23. Section 79-423, Reissue Revised Statutes of Nebraska, is amended to read:

79-423. In Class I, II, III, IV, and VI school districts, school district boundaries may comprise all or any part of a precinct or ward in any county or counties, and every legal voter of the school district shall be entitled to vote at any school district meeting or school district election. For elections to be held during 2006, the legal voters of a Class II, III, IV, or VI school district shall include residents of territory that will be attached to such school district on June 15, 2006, pursuant to section 2 or 3 of this act.

Sec. 24. Section 79-433, Reissue Revised Statutes of Nebraska, is amended to read:

79-433. For purposes of the Reorganization of School Districts Act,

unless the context otherwise requires:

(1) Reorganization of school districts means the formation of new school districts, the alteration of boundaries of established Class II, III, IV, or V school districts, ~~the affiliation of school districts,~~ and the dissolution or disorganization of established school districts through or by means of any one or combination of the methods set out in section 79-434; and

(2) State committee means the State Committee for the Reorganization of School Districts created by section 79-435.

Sec. 25. Section 79-434, Reissue Revised Statutes of Nebraska, is amended to read:

79-434. Reorganization of school districts may be accomplished through or by means of any one or more of the following methods: (1) The creation of new districts; (2) the uniting of one or more established districts; (3) the subdivision of one or more established districts; (4) the transfer and attachment to an established district of a part of the territory of one or more districts; and (5) ~~the affiliation of a Class I district or portion thereof with one or more Class II, III, IV, or V districts,~~ (6) ~~the changing of boundaries of a Class VI district,~~ and (7) ~~the dissolution or disorganization of an established district for any of the reasons specified by law.~~

Sec. 26. Section 79-435, Reissue Revised Statutes of Nebraska, is amended to read:

79-435. The State Committee for the Reorganization of School Districts is created. The state committee shall be composed of six members. The Commissioner of Education shall be a member of the committee ex officio and shall serve as a nonvoting member of the committee. Within thirty days after September 18, 1955, the State Board of Education, by a resolution adopted with the assent of a majority of its members, shall appoint the remaining five members of the state committee, one each for terms of one, two, three, four, and five years respectively. As the term of each member expires, a successor shall be appointed in the same manner for a term of five years. Three members of the state committee shall at all times be laypersons, and two members shall at all times be persons holding teachers' certificates issued by the authority of the State of Nebraska. Vacancies in the membership of the state committee shall be filled for the unexpired term by appointment in the same manner as the original appointment to membership. Members of the state committee shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties, as provided in sections 81-1174 to 81-1177 and paid from funds appropriated by the Legislature to the office of the State Board of Education. The State Board of Education ~~shall~~ may adopt and promulgate rules and regulations for the state committee to carry out its duties as provided by law.

Sec. 27. Section 79-443, Reissue Revised Statutes of Nebraska, is amended to read:

79-443. After one or more public hearings have been held, the state committee may approve a plan or plans of reorganization. Such plan shall contain:

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

(2) A summary of the reasons for each proposed change, realignment, or adjustment of the boundaries; ~~- If such plan provides for the creation of a new Class VI district, it shall designate whether such district shall include high school grades only or be known as a Class VI junior-senior high school district as described in section 79-411,~~

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

(4) A separate statement as to whether the reorganization is contingent upon the success of a bond election held in conjunction with the reorganization;

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

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

(7) Such other matters as the state committee determines proper to be included.

Sec. 28. Section 79-447, Reissue Revised Statutes of Nebraska, is amended to read:

79-447. (1) Not less than thirty nor more than sixty days after the designation of a final approved plan under section 79-446, the proposition of the adoption or rejection of the proposed plan of reorganization shall be submitted at a special election to all the legal voters of districts within the county whose boundaries are in any manner changed by the plan of reorganization. ~~including the boundaries of Class VI school districts if such plan includes a Class I school district which is entirely within a Class VI school district.~~

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

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

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

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

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

Sec. 29. Section 79-449, Reissue Revised Statutes of Nebraska, is amended to read:

79-449. Whenever two or more school districts are involved in a reorganization plan, the old districts shall continue to be responsible for any indebtedness incurred before the reorganization takes place unless a different arrangement is included in the plan voted upon by the people. ~~Bonded indebtedness incurred for high school facilities prior to the adoption of any affiliation plan shall remain the obligation of the high school district unless otherwise specified in the petitions.~~

Sec. 30. Section 79-452, Reissue Revised Statutes of Nebraska, is amended to read:

79-452. A proposal to dissolve a Class I or II school district, ~~except a Class I school district which is partly or wholly within a Class VI school district,~~ and attach it to one or more existing Class II, III, IV, or V school districts may be initiated by filing with the State Committee for the Reorganization of School Districts a petition or petitions signed by at least twenty-five percent of the legal voters of the district, together with an affidavit from the county clerk or election commissioner listing all legal voters of the district and a determination by the county clerk or election commissioner that the signatures are sufficient. The petition shall contain a plan of the proposed reorganization, an effective date, and a statement

whether any existing bonded indebtedness shall remain on the property of the district which incurred it or be assumed by the enlarged district. The petition may also contain provisions for the holding of school within existing buildings in the proposed reorganized district, and when so provided, the holding of school within such buildings shall be maintained from the date of reorganization unless either the legal voters served by the school or the school board of the reorganized district votes by a majority vote for discontinuance of the school. In case of conflicting votes between the legal voters and the school board on such issue, the decision of the legal voters shall prevail. A signing petitioner shall not be permitted to withdraw his or her name from the petition after the petition has been filed. The school board of each Class II, III, IV, or V district to which the merger is proposed shall also submit to the state committee a statement to the effect that a majority of the board members approve the proposal contained in the petition.

Sec. 31. Section 79-454, Reissue Revised Statutes of Nebraska, is amended to read:

79-454. If the proposal provided for in section 79-452 has been approved by the State Committee for the Reorganization of School Districts, the state committee shall notify the school board of the Class ~~I or~~ II district. The school board shall, within fifteen days after the notification, set a date for a special election for the purpose of submitting the proposal to the legal voters of the district. At least twenty days' notice of such election shall be given by publication twice in a newspaper of general circulation in the district, the latest publication to be not more than one week before the election. If there is no such newspaper, notice shall be given by posting it on the door of the schoolhouse and at least four other public places throughout the district. The proposal shall not be submitted to a special election more than once in any calendar year. Legal voters may cast their ballots, written or printed, between the hours of 12 noon and 8 p.m. on the date of such election. The county clerk or election commissioner of the county which has the largest number of pupils residing in the district shall conduct such special election in accordance with the Election Act and shall record the names and residence of persons voting at the special election. The ballots shall be canvassed as provided in section 79-447.

Sec. 32. Section 79-455, Reissue Revised Statutes of Nebraska, is amended to read:

79-455. If the proposal provided for in section 79-452 is approved by a majority of the legal voters of the school district voting on the matter, the secretary of the school board shall within five days certify the approval to the county clerk. The county clerk shall immediately notify the secretary of each Class II, III, IV, or V district affected of the action taken by the Class ~~I or~~ II district, and such secretary shall within ten days certify to the county clerk that the school board of the Class II, III, IV, or V district has, by a majority vote, officially approved the proposal as provided in section 79-452. The county clerk shall issue an order effecting the changes in school district boundaries in accordance with the proposal provided in section 79-452. He or she shall also file certificates with the county assessor, county treasurer, and State Committee for the Reorganization of School Districts showing the changes. An appeal may be taken from such order within twenty days after the rendition of the order in the same manner as appeals are taken from the action of the county board in allowing or disallowing claims against the county. Such appeal shall be filed in the district court for the county whose county clerk has jurisdiction of the Class ~~I or~~ II district. When more than one county clerk has jurisdiction of the Class ~~I or~~ II district, the appeal may be filed in the district court for either of the counties.

Sec. 33. Section 79-470, Reissue Revised Statutes of Nebraska, is amended to read:

79-470. (1) ~~No Class I school district which contracts for the instruction of all of its pupils with a Class I, II, III, IV, or V school district shall merge with another Class I school district unless such other Class I school district with which it is merging is included in the area which makes up a Class VI school district.~~

~~(2)~~ No school district shall contract for the instruction of all of its pupils with a Class II, III, IV, or V school district for more than two consecutive years.

~~(3)~~ (2) The State Committee for the Reorganization of School Districts shall dissolve and attach to a neighboring school district or districts any school district which, for two consecutive years, contracts for the instruction of all of its pupils with a Class II, III, IV, or V school district.

~~(4)~~ (3) The dissolution of any school district pursuant to this

section shall be effected in the manner prescribed in section 79-498. When such dissolution would create extreme hardships on the pupils or the school district affected, the State Board of Education may, on application by the school board of the school district, waive the dissolution of the school district on an annual basis.

~~(5)~~ (4) Nothing in this section shall be construed as an extension of the limitations on contracting for the instruction of the pupils of a school district contained in section 79-598.

Sec. 34. Section 79-473, Reissue Revised Statutes of Nebraska, is amended to read:

79-473. (1) If the territory annexed by a change of boundaries of a city or village which lies within a Class III school district as provided in section 79-407 has been part of a Class IV or Class V school district prior to such annexation, a merger of the annexed territory with the Class III school district shall become effective only if the merger is approved by a majority of the members of the school board of the Class IV or V school district and a majority of the members of the school board of the Class III school district within ninety days after the effective date of the annexation ordinance.

(2) Notwithstanding subsection (1) of this section, when territory which lies within a Class III school district, Class VI school district, or Class I school district which is attached to a Class VI school district or which does not lie within a Class IV or V school district is annexed by a city or village pursuant to section 79-407, the affected school board of the city or village school district and the affected school board or boards serving the territory subject to the annexation ordinance shall meet within thirty days after the effective date of the annexation ordinance and negotiate in good faith as to which school district shall serve the annexed territory and the effective date of any transfer. During the process of negotiation, the affected boards shall consider the following criteria:

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

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

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

(d) Community educational planning.

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

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

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

If no agreement has been reached prior to the approval of the final

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

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

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

Sec. 35. Section 79-479, Reissue Revised Statutes of Nebraska, is amended to read:

79-479. (1)(a) Beginning January 1, 1992, any school district boundaries changed by the means provided by Nebraska law, but excluding the method provided by sections 79-407, 79-473 to 79-475, and 79-549, shall be made only upon an order issued by the State Committee for the Reorganization of School Districts or county clerk. The state committee shall not issue an order changing boundaries relating to affiliation of school districts if twenty percent or more of any tract of land under common ownership which is proposing to affiliate is not contiguous to the high school district with which affiliation is proposed unless (i) one or more resident students of the tract of land under common ownership has attended the high school program of the high school district within the immediately preceding ten-year period or (ii) approval of the petition or plan would allow siblings of such resident students to attend the same school as the resident students attended.

(b) The order issued by the state committee shall be certified to the county clerk of each county in which boundaries are changed and shall also be certified to the State Department of Education. Whenever the order changes the boundaries of a school district due to the transfer of land, the county assessor, the Property Tax Administrator, and the State Department of Education shall be provided with the legal description and a map of the parcel of land which is transferred. Such order shall be issued no later than June 1 and shall have an effective date no later than August 1 of the same year. For purposes of determining school district counts pursuant to sections 79-524 and 79-578 and calculating state aid allocations pursuant to the Tax Equity and Educational Opportunities Support Act, any change in school district boundaries with an effective date between June 1 and August 1 of any year shall be considered effective June 1 of such year.

(2) Unless otherwise provided by state law or by the terms of an affiliation or reorganization plan or petition which is consistent with state law, all assets, including budget authority as provided in sections 79-1023 to 79-1030, and liabilities, except bonded obligations, of school districts merged, dissolved, or annexed shall be transferred to the receiving district or districts on the basis of the proportionate share of assessed valuation received at the time of reorganization. When a Class II, III, IV, or V school district becomes a Class I school district:

(a) Which becomes part of a Class VI district which offers instruction in grades six through twelve, 37.9310 percent of the Class II, III, IV, or V district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district;

(b) Which becomes part of a Class VI district which offers instruction in grades seven through twelve, 44.8276 percent of the Class II, III, IV, or V district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district; or

(c) Which is affiliated or becomes part of a Class VI district which offers instruction in grades nine through twelve, 61.3793 percent of the Class

II, III, IV, or V school district's assets and liabilities shall be transferred to the new Class I district and the remainder shall be transferred to the Class VI district or districts of which the Class I district becomes a part and to the high school district or districts with which the Class I district is affiliated on the basis of the proportionate share of assessed valuation each high school district received at the time of such change in class of district.

Sec. 36. Section 79-499, Reissue Revised Statutes of Nebraska, is amended to read:

79-499. (1) ~~Commencing with the 1992-93 school year, if~~ If the fall school district membership or the average daily membership of an existing Class II or III school district shows less than thirty-five students in grades nine through twelve, the district shall submit a plan for developing cooperative programs with other high schools, including the sharing of curriculum and certificated and noncertificated staff, to the State Committee for the Reorganization of School Districts. The cooperative program plan shall be submitted by the school district by September 1 of the year following such fall school district membership or average daily membership report. A cooperative program plan shall not be required if there is no high school within fifteen miles from such district on a reasonably improved highway. The state committee shall review the plan and provide advice and communication to such school district and other high schools.

(2) If for two consecutive years the fall school district membership, or for two consecutive years the average daily membership, of an existing Class II or III school district is less than twenty-five pupils in grades nine through twelve or if for one year an existing Class II or III school district contracts with a neighboring school district or districts to provide educational services for all of its pupils in grades nine through twelve, such school district shall, except as provided in subsection (3) of this section, ~~become a Class I~~ merge with another Class II, III, IV, or V school district through the order of the state committee if the high school is within fifteen miles on a reasonably improved highway of another high school.

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

(3) Any Class II or III school district maintaining a four-year high school which has a fall school district membership or an average daily membership of less than twenty-five students in grades nine through twelve may contract with another school district to provide educational services for its pupils in grades nine through twelve. Such contract may continue for a period not to exceed one year. At the end of such one-year period, the school district may resume educational services for grades nine through twelve if the average daily membership in grades nine through twelve for such school district has reached at least fifty students. If the school district has not achieved such fall school district membership or average daily membership, it shall ~~become a Class I~~ merge with another Class II, III, IV, or V school district by order of the state committee entered after thirty days' notice to the district but without a hearing, notwithstanding the distance on a reasonably improved highway to the nearest school district conducting a high school.

(4) For purposes of this section, when calculating fall school district membership or average daily membership, a resident school district as defined in section 79-233 shall not count students attending an option district as defined in such section and a Class II or III school district shall not count foreign exchange students and nonresident students who are wards of the court or state.

Sec. 37. Section 79-4,101, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,101. For purposes of sections 10-716.01, 79-402, ~~79-422, 79-424 to 79-431, 79-449,~~ 79-4,100 to 79-4,102, 79-611, and 79-1077:

(1) Elementary school facility means the educational facility used to provide services for students in grades kindergarten through eight in an affiliated school system;

(2) High school district means the Class II, III, IV, or V district which provides the high school program for an affiliated Class I district;

(3) High school facility means the educational facility used to provide services for students in grades nine through twelve in an affiliated school system;

(4) High school program means the educational services provided in an affiliated school system for grades nine through twelve; and

(5) High school students means students enrolled in a high school program.

Sec. 38. Section 79-4,108, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(4) The school districts participating in a unified system shall retain their separate identities for all purposes except those specified in this section, and participation in a unified system shall not be considered a reorganization.

Sec. 39. Section 79-4,111, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,111. ~~The affiliation agreement for a Class I district that is affiliated with a Class II or III district that is participating in a unified system shall continue unmodified unless (1) the Class I district reaffiliates~~

pursuant to section 79-4,109 or (2) the Class I district's entire valuation is included in the unified system and the Class I district chooses to participate in the unified system by becoming a party to the interlocal agreement pursuant to section 79-4,108. For the purpose of determining the total allowable general fund budget of expenditures minus the special education budget of expenditures pursuant to section 79-1083.03 for Class I districts that are not participating in the unified system, the data for the unified system shall be deemed to be the data for the high school district if the primary high school district is a participant in the unified system.

Sec. 40. Except as provided in section 2 of this act:

(1) The school board of any Class II, III, IV, or V school district shall not take action to close an elementary attendance center or to change the elementary grades offered at an elementary attendance center if:

(a) The closing of the elementary attendance center or the changing of the elementary grades offered at such elementary attendance center would cause at least one resident elementary student to reside more than twenty miles from the nearest elementary attendance center in the district on a route that would be actually and necessarily traveled from the student's residence to such elementary attendance center; and

(b) A parent or guardian of such student or child has notified the school board in writing of the distance from the residence to the nearest elementary attendance center as described in subdivision (1)(a) of this section and such written notification was received on or before May 1 of the school year preceding the first school year in which the elementary attendance center would be closed or the grades offered would be changed;

(2) The school board of any Class II, III, IV, or V school district shall not take action to close an elementary attendance center or to change the elementary grades offered at an elementary attendance center if:

(a) The fall membership of the elementary attendance center for the school year immediately preceding the first school year in which the elementary attendance center would be closed or the grades offered would be changed included at least ten students who were either resident students, students residing within the boundaries of a former Class I district that contained the elementary attendance center as such boundaries existed for school year 2005-06, or students who were in the fall membership of the elementary attendance center for school year 2005-06 if the elementary attendance center was in a Class I school district at such time; and

(b) Either:

(i) The elementary attendance center is at least ten miles on a route that would be actually and necessarily traveled from the closest elementary attendance center within the district;

(ii) The elementary attendance center is at least ten miles on a route that would be actually and necessarily traveled from the closest elementary attendance center within the district for which the fall membership for the immediately preceding school year included a total number of resident elementary students that was at least ten times the number of elementary grades offered at such elementary attendance center; or

(iii) The elementary attendance center is the only elementary attendance center located within the boundaries of an incorporated city or village;

(3) The school board of any Class II, III, IV, or V school district shall not take action to close an elementary attendance center or to change the elementary grades offered at an elementary attendance center without the approval of at least seventy-five percent of the school board of the Class II, III, IV, or V school district if:

(a) The fall membership of the elementary attendance center for the school year immediately preceding the first school year in which the elementary attendance center would be closed or the grades offered would be changed included at least ten students who were either resident students, students residing within the boundaries of a former Class I school district that contained the elementary attendance center as such boundaries existed for school year 2005-06, or students who were in the fall membership of the elementary attendance center for school year 2005-06 if the elementary attendance center was in a Class I school district at such time; and

(b) Either:

(i) The elementary attendance center is at least four miles but less than ten miles, on a route that would be actually and necessarily traveled, from the closest elementary attendance center within the district; or

(ii) The elementary attendance center is at least four miles but less than ten miles, on a route that would be actually and necessarily traveled, from the closest elementary attendance center within the district for which the fall membership for the immediately preceding school year

included a total number of resident elementary students that was at least ten times the number of elementary grades offered at such elementary attendance center;

(4) Until the completion of the school year in which a kindergarten student from school year 2005-06 would complete the highest grade offered at the elementary attendance center if such student would progress through the grades at the normal rate, the school board of any Class II, III, IV, or V school district shall not take action to close an elementary attendance center or to change the elementary grades offered at an elementary attendance center if:

(a) The fall membership of the elementary attendance center for the school year immediately preceding the first school year in which the elementary attendance center would be closed or the grades offered would be changed included at least five students who were either resident students, students residing within the boundaries of a former Class I school district that contained the elementary attendance center as such boundaries existed for school year 2005-06, or students who were in the fall membership of the elementary attendance center for school year 2005-06 if the elementary attendance center was in a Class I school district at such time; and

(b) At least one resident student, student residing within the boundaries of a former Class I school district that contained the elementary attendance center as such boundaries existed for school year 2005-06, or student who was in the fall membership of the elementary attendance center for school year 2005-06 if the elementary attendance center was in a Class I school district at such time has registered to attend such elementary attendance center as of August 1 immediately preceding the beginning of the school year for which the elementary attendance center would be closed or the grades offered would be changed;

(5) Except when an elementary attendance center fails to meet the provisions of subdivision (4)(b) of this section, the school board of any Class II, III, IV, or V school district shall not take action to close an elementary attendance center or to change the elementary grades offered at an elementary attendance center unless public notice has been given that the school board is considering such action on or before January 1 of the school year preceding the first school year for which the elementary attendance center would be closed or the grades offered would be changed;

(6) The temporary relocation of some or all of the students to an alternate elementary attendance center for a period not to exceed two years shall not constitute the closing of an elementary attendance center or a change in the grades offered at such elementary attendance center. An alternate elementary attendance center pursuant to this subdivision shall not be subject to subdivision (1), (2), (3), or (4) of this section. The grades offered at the alternate elementary attendance center shall include any grade for which a student could enroll and receive education at the elementary attendance center for the specified school year; and

(7) For purposes of this section:

(a) Elementary attendance center means a building in which education was offered by a school district in one or more of the grades kindergarten through grade four;

(b) Resident elementary student means a student who will be attending school in an elementary grade in the school year in which the elementary attendance center would otherwise be closed or the grades offered would otherwise be changed and who resides within the boundaries of the school district which contains the elementary attendance center; and

(c) Resident student means a student who resides within the boundaries of the school district which contains the elementary attendance center.

Sec. 41. Section 79-556, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 42. Section 79-611, Reissue Revised Statutes of Nebraska, is amended to read:

79-611. (1) The school board shall either provide free transportation or pay an allowance for transportation in lieu of free transportation as follows:

(a) When a student in grades kindergarten through eight attends an

elementary school in his or her own district and lives more than four miles from the public schoolhouse in such district; and

(b) When a student in grades kindergarten through eight is required to attend an elementary school outside of his or her own district and lives more than four miles from such elementary school. +

~~(c) When a student attends a secondary school in his or her own Class II or Class III school district and lives more than four miles from the public schoolhouse. This subdivision does not apply when one or more Class I school districts merge with a Class VI school district to form a new Class II or III school district on or after January 1, 1997; and~~

~~(d) When a student, other than a student in grades ten through twelve in a Class V district, attends an elementary or junior high school in his or her own Class V district and lives more than four miles from the public schoolhouse in such district.~~

(2) The transportation allowance which may be paid to the parent, custodial parent, or guardian of students qualifying for free transportation pursuant to subsection (1) of this section shall equal two hundred eighty-five percent of the mileage rate provided in section 81-1176, multiplied by each mile actually and necessarily traveled, on each day of attendance, beyond which the one-way distance from the residence of the student to the schoolhouse exceeds three miles.

(3) Whenever students from more than one family travel to school in the same vehicle, the transportation allowance prescribed in subsection (2) of this section shall be payable as follows:

(a) To the parent, custodial parent, or guardian providing transportation for students from other families, one hundred percent of the amount prescribed in subsection (2) of this section for the transportation of students of such parent's, custodial parent's, or guardian's own family and an additional five percent for students of each other family not to exceed a maximum of one hundred twenty-five percent of the amount determined pursuant to subsection (2) of this section; and

(b) To the parent, custodial parent, or guardian not providing transportation for students of other families, two hundred eighty-five percent of the mileage rate provided in section 81-1176 multiplied by each mile actually and necessarily traveled, on each day of attendance, from the residence of the student to the pick-up point at which students transfer to the vehicle of a parent, custodial parent, or guardian described in subdivision (a) of this subsection.

(4) The board may authorize school-provided transportation to any student who does not qualify under the mileage requirements of subsection (1) of this section and may charge a fee to the parent or guardian of the student for such service. ~~An affiliated high school district may provide free transportation or pay the allowance described in this section for high school students residing in an affiliated Class I district.~~ No transportation payments shall be made to a family for mileage not actually traveled by such family. The number of days the student has attended school shall be reported monthly by the teacher to the board of such public school district.

(5) No more than one allowance shall be made to a family irrespective of the number of students in a family being transported to school. If a family resides in a Class I district which is part of a Class VI district and has students enrolled in any of the grades offered by the Class I district and in any of the non-high-school grades offered by the Class VI district, such family shall receive not more than one allowance for the distance actually traveled when both districts are on the same direct travel route with one district being located a greater distance from the residence than the other. In such cases, the travel allowance shall be prorated among the school districts involved.

(6) No student shall be exempt from school attendance on account of distance from the public schoolhouse.

Sec. 43. Section 79-850, Reissue Revised Statutes of Nebraska, is amended to read:

79-850. For purposes of sections 79-850 to 79-858:

(1) Reorganized school district means: (a) Any expanded or altered school district, organized or altered by any of the means provided by Nebraska law including, but not limited to, the methods provided by the Reorganization of School Districts Act, section 79-407, 79-413, or 79-473, ~~or sections~~ section 79-415, 79-416, to 79-417 or 79-452 to 79-455, or section 2 or 3 of this act; or (b) any school district to be formed in the future if the petition or plan for such reorganized school district has been approved pursuant to any of the methods set forth in subdivision (1)(a) of this section when the effective date of such reorganization is prospective. For purposes of this subdivision, a petition or plan shall be deemed approved when the last

legal action has been taken, as prescribed in section 79-413, 79-450, or 79-455, or section 2 or 3 of this act, necessary to effect the changes in boundaries as set forth in the petition or plan; and

(2) Unified system means a unified system as defined in section 79-4,108 recognized by the State Department of Education pursuant to subsection (3) of such section, which employs certificated staff.

Sec. 44. Section 79-857, Reissue Revised Statutes of Nebraska, is amended to read:

79-857. (1) For reorganizations involving consolidation of school districts into one or more reorganized districts, staff not electing retirement pursuant to section 79-855 or Staff Development Assistance pursuant to section 79-856 shall be allocated prior to the effective date of reorganization as follows:

(a) All districts involved may enter into an agreement on the allocation of all certificated employees to one or more of the reorganized districts. No certificated employee shall be allocated to more than one district. Such agreement shall be signed by all the districts involved;

(b) For reorganizations pursuant to section 3 of this act, all certificated employees from the Class I school district who have not been allocated pursuant to subdivision (1)(a) of this section shall be allocated to the reorganized district receiving the assets and liabilities of the Class I school district;

(c) All certificated employees from the district or districts who have not been allocated pursuant to subdivision (1)(a) or (b) of this section shall be totaled and allocated among the reorganized districts based upon the proportion of students transferring to the reorganized district;

~~(e)~~ (d) All certificated employees from the district shall be treated equally in the allocation regardless of seniority. Staff shall not be given the option to choose the reorganized district in which to relocate. Random selection shall be utilized to allocate individual employees among all reorganized districts; and

~~(d)~~ (e) Once the selection and allocation is completed, employees from the district or districts shall retain years of service from the previous district for purposes of seniority. Within each reorganized district, employees from the receiving district shall not have priority over transferring employees. All reduction-in-force laws and policies shall apply.

(2) For unifications, staff not electing retirement pursuant to section 79-855 or Staff Development Assistance pursuant to section 79-856 shall be allocated prior to the effective date of the unification in compliance with an agreement signed by all participating districts. Once the selection and allocation is completed, employees shall retain years of service from the participating district for purposes of seniority. All reduction-in-force laws and policies shall apply.

Sec. 45. Section 79-1003, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Adjusted general fund operating expenditures means general fund operating expenditures as calculated pursuant to subdivision (23) of this section minus the transportation allowance and minus the special receipts allowance;

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

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

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

(18) Formula students means (a) for state aid certified pursuant to section 79-1022, the sum of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid and the prior two school fiscal years, and tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and (b) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership and tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid was paid;

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

(21) 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) General fund expenditures means all expenditures from the general fund;

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

(25) 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) 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) 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) 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 2 or 3 of this act 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 2 or 3 of this act; 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) 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) 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) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

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

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

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

(35) 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;

(36) 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;

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

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

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

(40) Temporary aid adjustment factor means 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;

(41) 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;

(42) 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

(43) 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. 46. Section 79-1016, Revised Statutes Supplement, 2004, is amended to read:

79-1016. (1) On or before August 25, the county assessor shall certify to the Property Tax Administrator the total taxable value by school district in the county for the current assessment year on forms prescribed by the Property Tax Administrator. The county assessor may amend the filing for changes made to the taxable valuation of the school district in the county if corrections or errors on the original certification are discovered. Amendments shall be certified to the Property Tax Administrator on or before September 30. For 2005, pursuant to orders issued by the State Committee for the Reorganization of School Districts on or before December 1, 2005, for a Class I school district which dissolves and attaches its territory to a Class II, III, IV, or VI school district in such a manner that the parcels of property do not become a part of the local system with which they were previously affiliated or to which they were previously attached, the Property Tax Administrator shall require the county assessor to recertify the Class I district's taxable valuation according to the new affiliation on or before December 20, 2005, on forms prescribed by the Property Tax Administrator. For any local system's territory which is affected by a recertification of a Class I district's taxable valuation, the Property Tax Administrator shall compute and recertify the adjusted valuation to each local system and the department on or before February 1, 2006.

(2) On or before October 10, the Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation for the current assessment year for each class of property in each school district and each local system for state aid to be certified for the following school fiscal year. The adjusted valuation of property for each school district and each local system, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (3) of this section. The Property Tax Administrator shall notify each school district and each local system of its adjusted valuation for the current assessment year by class of property on or before October 10. Establishment of the adjusted valuation shall be based on the taxable value certified by the county assessor for each school district in the county adjusted by the determination of the level of value for each school district from an analysis of the comprehensive assessment ratio study or other studies developed by the Property Tax Administrator, in compliance with professionally accepted mass appraisal techniques, as required by section 77-1327. The Property Tax Administrator shall adopt and promulgate rules and regulations setting forth standards for the determination of level of value for school aid purposes.

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

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

(b) For agricultural and horticultural land, eighty percent of actual value as provided in sections 77-1359 to 77-1363. For agricultural and horticultural land that receives special valuation pursuant to section 77-1344, eighty percent of special valuation as defined in section 77-1343; and

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

(4) On or before November 10, any local system may file with the Property Tax Administrator written objections to the adjusted valuations

prepared by the Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (3) of this section. The Property Tax Administrator shall fix a time for a hearing. Either party shall be permitted to introduce any evidence in reference thereto. On or before January 1, the Property Tax Administrator shall enter a written order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Property Tax Administrator shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. A copy of the written order shall be mailed to the local system within seven days after the date of the order. The written order of the Property Tax Administrator may be appealed within thirty days after the date of the order to the Tax Equalization and Review Commission in accordance with section 77-5013.

(5) On or before November 10, any local system or county official may file with the Property Tax Administrator a written request for a nonappealable correction of the adjusted valuation due to clerical error or, for agricultural and horticultural land, assessed value changes by reason of land qualified or disqualified for special use valuation pursuant to sections 77-1343 to 77-1348. For purposes of this subsection, clerical error means transposition of numbers, allocation of value to the wrong school district, mathematical error, and omitted value. On or before the following January 1, the Property Tax Administrator shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

(6) On or before June 30 of the year following the certification of adjusted valuation pursuant to subsection (2) of this section, any local system or county official may file with the Property Tax Administrator a written request for a nonappealable correction of the adjusted valuation due to changes to the tax list that change the assessed value of taxable property. Upon the filing of the written request, the Property Tax Administrator shall require the county assessor to recertify the taxable valuation by school district in the county on forms prescribed by the Property Tax Administrator. The recertified valuation shall be the valuation that was certified on the tax list, pursuant to section 77-1613, increased or decreased by changes to the tax list that change the assessed value of taxable property in the school district in the county in the prior assessment year. On or before the following July 31, the Property Tax Administrator shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

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

(8) A school district whose state aid is to be calculated pursuant to subsection (5) of this section and whose state aid payment is postponed as a result of failure to calculate state aid pursuant to such subsection may apply to the state board for lump-sum payment of such postponed state aid. Such application may be for any amount up to one hundred percent of the postponed state aid. The state board may grant the entire amount applied for or any portion of such amount. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in a lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, at the time of the next state aid payment made pursuant to section 79-1022, draw a warrant for the lump-sum amount from appropriated funds and forward such warrant to the district.

Sec. 47. Section 79-1022, Revised Statutes Supplement, 2004, is amended to read:

79-1022. (1) On or before ~~June 15, 2003~~ March 1, 2006, and on or before February 1 for each year thereafter, the department shall determine the amounts to be distributed to each local system and each district pursuant to the Tax Equity and Educational Opportunities Support Act and shall certify the amounts to the Director of Administrative Services, the Auditor of Public Accounts, and each district. The amount to be distributed to each district from the amount certified for a local system shall be proportional based on the weighted formula students attributed to each district in the local system. On or before ~~June 15, 2003~~ March 1, 2006, and on or before February 1 for each year thereafter, the department shall report the necessary funding level to the Governor, the Appropriations Committee of the Legislature, and the Education Committee of the Legislature. Certified state aid amounts shall be shown as budgeted non-property-tax receipts and deducted prior to calculating the property tax request in the district's general fund budget statement as provided to the Auditor of Public Accounts pursuant to section 79-1024.

(2) Except as provided in ~~subsection (3) of this section and~~

subsection (8) of section 79-1016 and section 79-1033, the amounts certified pursuant to subsection (1) of this section shall be distributed in ten as nearly as possible equal payments on the last business day of each month beginning in September of each ensuing school fiscal year and ending in June of the following year, except that when a school district is to receive a monthly payment of less than one thousand dollars, such payment shall be one lump-sum payment on the last business day of December during the ensuing school fiscal year.

~~(3) For school fiscal year 2002-03, except as provided in subsection (8) of section 79-1016 and section 79-1033, the amounts certified pursuant to subsection (1) of this section shall be distributed according to the payment schedule in this subsection on the last business day of each month listed, except that when a school district is to receive ten thousand dollars or less, such payment shall be one lump-sum payment on the last business day of December. The amount distributed each month shall be equal to the amount certified pursuant to subsection (1) of this section multiplied by the applicable percentage, rounded to the nearest cent. The percentages are:~~

~~(a) For September, October, November, and December, seven and seven-tenths percent;~~

~~(b) For January, February, March, and April, ten percent; and~~

~~(c) For May and June, fourteen and six-tenths percent.~~

Sec. 48. Section 79-1026, Reissue Revised Statutes of Nebraska, is amended to read:

79-1026. On or before ~~June 15, 2003~~ March 1, 2006, and on or before February 1 for each year thereafter, the department shall determine and certify to each Class II, III, IV, V, or VI district an applicable allowable growth rate carried out at least four decimal places for each local system as follows:

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

(2) For each school fiscal year, each local system's general fund operating expenditures shall be compared to its target budget level along the range described in subdivision (1) of this section to arrive at an applicable allowable growth rate as follows: If each local system's general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section 79-1025. If each local system's general fund operating expenditures are greater than the higher end of the range, the local system's allowable growth rate shall be the basic allowable growth rate identified in such section. If each local system's general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear interpolation calculation between the end points of the range to arrive at the applicable allowable growth rate for the local system.

Sec. 49. Section 79-1027, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

On or before ~~February 5, 2003~~ March 1, 2006, and on or before February 1 each year thereafter, the department shall determine and certify each district's applicable allowable reserve percentage.

Each district with combined necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable

growth rate, increase its necessary general fund cash reserves such that the total necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves do not exceed such applicable allowable reserve percentage.

Sec. 50. Section 79-1028, Revised Statutes Supplement, 2004, 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) 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.

Sec. 51. Section 79-1031.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1031.01. The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid certified to school districts on or before ~~May 1, 2002~~ March 1, 2006, and on or before February 1 for each ensuing school year thereafter in its recommendations to the Legislature to carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

Sec. 52. Section 79-1083.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-1083.02. For school fiscal years prior to school fiscal year 2006-07: On or before ~~February 5, 2003, and on or before~~ February 1 of each year, ~~thereafter~~, the State Department of Education shall designate a primary high school district for each Class I school district for the following school fiscal year. The primary high school district shall be the one Class II, III, IV, V, or VI school district or the unified system with which the greatest share of the Class I district's assessed valuation is affiliated or of which such share is a part for the school fiscal year immediately preceding the school fiscal year for which the primary high school district determination is made. The department shall certify to all school districts and all county clerks the primary high school district for each Class I district.

Sec. 53. Section 79-1083.03, Reissue Revised Statutes of Nebraska, is amended to read:

79-1083.03. For school fiscal years prior to school fiscal year 2006-07:

(1) (a) If the primary high school district designated pursuant to section 79-1083.02 is a Class VI district, the Class I district's total allowable general fund budget of expenditures minus the special education budget of expenditures shall be determined by the school board of such Class VI district and shall be certified to the Class I district on or before ~~June 24, 2003, and on or before~~ March 1 each year thereafter for the following school fiscal year; and -

(b) The Class VI primary high school district shall certify the total allowable general fund budget of expenditures minus the special education budget of expenditures for the Class I district to the State Department of Education on or before ~~August 1, 2003, and on or before~~ April 20, each year thereafter.

(2) If the primary high school district is not a Class VI district, the Class I district's total allowable general fund budget of expenditures minus the special education budget of expenditures shall be determined by the department as follows and certified ~~on or before June 15, 2003, and on or before~~ February 1 each year thereafter, for the following school fiscal year:

(a) The total allowable general fund budget of expenditures minus the special education budget of expenditures for the Class I district in the school fiscal year immediately preceding the school fiscal year for which the budget is prepared shall be divided by the formula students in the Class I district as defined in section 79-1003, and the result shall be increased by the applicable allowable growth rate for the primary high school district's local system for the ensuing school fiscal year calculated pursuant to section 79-1026 as determined on or before ~~June 15, 2003, and on or before~~ February 1 each year thereafter, of the school fiscal year immediately preceding the school fiscal year for which the budget is prepared;

(b) The total allowable general fund budget of expenditures minus the special education budget of expenditures for the primary high school district in the school fiscal year immediately preceding the school fiscal year for which the budget is prepared shall be divided by the formula students as defined in section 79-1003 in the primary high school district weighted by the grade weighting factors contained in subdivision (1)(a) of section 79-1007.01, and the result shall be multiplied by the kindergarten through

grade eight formula students as defined in section 79-1003 weighted by the grade weighting factors contained in subdivision (1)(a) of section 79-1007.01 to calculate the total allowable general fund budget of expenditures minus the special education budget of expenditures for kindergarten through grade eight in the primary high school district. The total allowable general fund budget of expenditures minus the special education budget of expenditures for kindergarten through grade eight shall be divided by the kindergarten through grade eight formula students without weighting. The result shall be increased by the applicable allowable growth rate for the primary high school district's local system for the ensuing school fiscal year calculated pursuant to section 79-1026 as determined on or before ~~June 15, 2003, and on or before~~ February 1 ~~each year thereafter,~~ of the school fiscal year immediately preceding the school fiscal year for which the budget is prepared;

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

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

(3)(a) The school board of the Class I district may, on or before ~~July 1, 2003, and on or before~~ March 10, ~~each year thereafter,~~ submit a request to exceed the total allowable general fund budget of expenditures minus the special education budget of expenditures to all the school boards of the high school district or districts with which the Class I district is affiliated or of which it is a part. For Class I districts to exceed the total allowable general fund budget of expenditures minus the special education budget of expenditures, the total general fund budget of expenditures request shall be approved by high school districts, including the primary high school district, such that the portions of the Class I district that are affiliated with or part of the approving high school districts comprise at least two-thirds of the assessed valuation of the Class I district. Such request shall specify the total general fund budget of expenditures, broken down by expenditures for special education, for regular education, and for special grant funds as defined in section 79-1003, for which the Class I district seeks authority; and -

(b) The high school district shall approve or deny the request on or before ~~July 15, 2003, and on or before~~ April 10 ~~each year thereafter~~ following the receipt of such request and shall forward written notification to the Class I district of approval or denial. A request for additional budget authority shall be considered approved if (i) no action is taken by the high school district or (ii) the high school district fails to send written notification to the Class I district of the denial of a request for additional budget authority; -

(4) The school board of a Class I district may, after October 15 of each year, amend the general fund budget of expenditures (a) by increasing the special education budget of expenditures, (b) for any special grant funds as defined in section 79-1003 received any time during a school fiscal year, or (c) for current fiscal year expenditures the board deems essential if the expenditures could not reasonably have been anticipated at the time the budget for the current year was adopted. A copy of the revised budget shall be filed pursuant to subsection (4) of section 13-511 and section 79-1024; -

(5) All Class I districts shall certify the items required by subsection (1) of section 13-508 to all of their high school districts on or before August 1; and -

(6) All primary high school districts shall certify to the department and all other affected districts, on or before ~~August 1, 2003, and on or before~~ April 20, ~~each year thereafter,~~ the approved total general fund budget of expenditures for a Class I district when the Class I district has requested to exceed its certified budget authority and the request has been approved.

Sec. 54. Sections 8, 42, 50, and 55 of this act become operative on June 15, 2006. The other sections of this act become operative on their effective date.

Sec. 55. Original sections 79-102 and 79-611, Reissue Revised Statutes of Nebraska, and section 79-1028, Revised Statutes Supplement, 2004,

are repealed.

Sec. 56. Original sections 32-542, 79-401, 79-402, 79-403, 79-405, 79-407, 79-408, 79-409, 79-410, 79-413, 79-415, 79-416, 79-418, 79-419, 79-422, 79-423, 79-433, 79-434, 79-435, 79-443, 79-447, 79-449, 79-452, 79-454, 79-455, 79-470, 79-473, 79-479, 79-499, 79-4,101, 79-4,108, 79-4,111, 79-556, 79-850, 79-857, 79-1003, 79-1026, 79-1027, 79-1031.01, 79-1083.02, and 79-1083.03, Reissue Revised Statutes of Nebraska, and sections 79-1016 and 79-1022, Revised Statutes Supplement, 2004, are repealed.

Sec. 57. The following sections are outright repealed: Sections 79-404, 79-406, 79-411, 79-417, 79-424 to 79-427, 79-431, 79-472, 79-477, 79-478, 79-492 to 79-495, 79-4,109, and 79-4,110, Reissue Revised Statutes of Nebraska.